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OFFICE OF PETITIONS

**BORDEN LADNER GERVAIS LLP
Anne Kinsman
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA ON K1P 1J9 CA CANADA**

In re Application of	:	
Hon Beom PYEON et al.	:	
Application No. 11/622,828	:	DECISION ON PETITION
Filed: January 12, 2007	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. PAT 3809-2	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed June 01, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

- (1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The amendment drafted is unacceptable and, therefore, will not be entered. (See the attached Advisory Action).

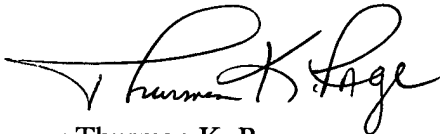
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: Customer Service Window
 Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By fax: (571) 273-8300
 ATTN: Office of Petitions

Any questions concerning this matter may be directed to Michelle R. Eason at (571) 272-4231.

A handwritten signature in black ink, appearing to read 'Thurman K. Page', with a stylized flourish at the end.

Thurman K. Page
Petitions Examiner
Office of Petitions

ATTACHMENT: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	11/622,828	PYEON ET AL.	
	Examiner	Art Unit	
	ARACELIS RUIZ	2189	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 June 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-51.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
Entry of the priority claim to the provisional application 60/868,773 filed December 26, 2006 does not overcome the rejections set forth in the Office Action.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.



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Anne Kinsman
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA ON K1P 1J9 CA CANADA

MAILED

DEC 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Hong Beom PYEON et al.	:	
Application No. 11/622,828	:	DECISION ON PETITION
Filed: January 12, 2007	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. PAT 3809-2	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed November 18, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

- (1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

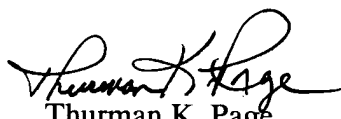
All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Michelle R. Eason at (571) 272-4231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 2189 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.


Thurman K. Page
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt



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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
11/622,828	01/12/2007	2189	3850	PAT 3809-2	57	8

CONFIRMATION NO. 3701

CORRECTED FILING RECEIPT



OC000000045060402

26123
BORDEN LADNER GERVAIS LLP
Anne Kinsman
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA, ON K1P 1J9
CANADA

Date Mailed: 12/21/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Hong Beom PYEON, Kanata, CANADA;
HakJune OH, Kanata, CANADA;
Jin-Ki KIM, Kanata, CANADA;

Assignment For Published Patent Application

MOSAID TECHNOLOGIES INCORPORATED, Kanata, CANADA

Power of Attorney: The patent practitioners associated with Customer Number 26123

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/870,892 12/20/2006
and claims benefit of 60/868,773 12/06/2006

Foreign Applications

If Required, Foreign Filing License Granted: 02/08/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/622,828**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

APPARATUS AND METHOD FOR PRODUCING IDS FOR INTERCONNECTED DEVICES OF MIXED TYPE

Preliminary Class

711

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).



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RUTHERFORD & BRUCCULERI,
L.L.P.
20333 SH 249 6th Floor
HOUSTON TX 77070

MAILED

MAR 23 2012

In re Application of	:	OFFICE OF PETITIONS
Johnson et al.	:	
Pat. Num.: 8,113,357	:	
Issue Date: 02/14/2012	:	
Application No. 11/622897	:	ON REQUEST FOR
Filing or 371(c) Date: 01/12/2007	:	RECONSIDERATION OF
Atty Docket No.:	:	PATENT TERM ADJUSTMENT
968-0011US	:	

This is a decision on the petition filed on February 22, 2012, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred seven (1107) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred seven (1107) days is **DISMISSED**.

As to the period of time excluded from B delay for appellate review, Patentee's argument has also been considered, but not found persuasive. The period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See, 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (e.g. the filing of a request for continued examination). In this instance the period consumed by appellate review is 1014 days, beginning on January 7, 2009, the date of filing of the notice of appeal, and ending on October 17, 2011, the date of mailing of the decision of the Board of Patent Appeals and Interferences.

It is noted that the Office issued a Notice of proposed rulemaking entitled *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements*, 76 FR 18990 (April 6, 2011). To the extent that the final rule on *Revision*

of Patent Term Extension and Adjustment Provisions Relating to Appellate Review revises the interpretation of appellate review applied in this decision, Patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/622,938	01/12/2007	Michael George Folgner	085804-033003	3912

7590 09/30/2010
YAHOO! INC. C/O GREENBERG TRAURIG, LLP
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK, NY 10166

EXAMINER

BANKS HAROLD, MARSHA DENISE

ART UNIT	PAPER NUMBER
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2621

NOTIFICATION DATE	DELIVERY MODE
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09/30/2010

ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Mimi Turner
Patent Publication Branch
Office of Data Management

Adjustment date: 09/29/2010 HPA/TER
01/16/2007 10:00:00 00000000 000770 11022500
02 FC1111 500.00 CR
04 FC1202 500.00 CR
05 FC1201 500.00 CR



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Black, Lowe, Graham
701 5th Ave., Suite 4800
Seattle WA 98104

MAILED

NOV 08 2010

In re Application of :
William E. Luce et al. :
Application No. 11/622,958 :
Filed: January 12, 2007 :
Attorney Docket No. GORI-1-1011 :

OFFICE OF PETITIONS
DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36(b), filed October 19, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because the Office no longer accept address changes to a new practitioner/customer number or law firm filed with a request, absent the filing of a power of attorney to the new representative.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71*, or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions



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RAUBVOGEL LAW OFFICE
820 LAKEVIEW WAY
REDWOOD CITY CA 94062

MAILED
FEB 27 2012
OFFICE OF PETITIONS

In re Application of :
Kent Alstad, et al. :
Application No. 11/623,028 : DECISION GRANTING PETITION
Filed: January 12, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. STR12123 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, February 24, 2012 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 31, 2012 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2469 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.



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RICHARD R. MUCCINO
758 SPRINGFIELD AVENUE
SUMMIT, NJ 07901

MAILED

AUG 02 2010

OFFICE OF PETITIONS

In re Application of

Beuford A. BOGUE

Application No. 11/623,150

Filed: January 15, 2007

Attorney Docket No. **2922.0070002/RWE/SLE**

DECISION ON PETITION TO
WITHDRAW FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 14, 2010.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Richard R. Muccino has been revoked by the assignee of the patent application on July 1, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

CC: **STERNE KESSLER GOLDSTEIN & FOX, PLLC.**
1100 NEW YORK AVENUE, NW
WASHINGTON, DC 20005



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Frank Pincelli
Patent Legal Staff
Eastman Kodak Company
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Rochester NY 14650-2201

Paper No.

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DEC 01 2010

OFFICE OF PETITIONS

In re Application of :
Ronald Cok : DECISION ON PETITION
Application No. 11/623,155 :
Filed: January 15, 2007 :
Attorney Docket No. 93496SHS :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed September 27, 2010.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed December 28, 2009. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered filed and no extension of time obtained, the application became abandoned effective March 29, 2010. The instant petition precedes the mailing of a courtesy Notice of Abandonment.


The petition includes the required reply in the form of an amendment, the required statement of unintentional delay and payment of the petition fee. No terminal disclaimer is required.

The address on the petition is different than the correspondence address of record. The power of attorney and change of address filed May 4, 2010 was denied (see Notice sent May 11, 2010). A courtesy copy of the decision is being sent to the address on the petition. However, all future correspondence will be sent

to the correspondence address of record until a proper change of address is filed and approved.

Technology Center AU 2889 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed September 27, 2010.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Wonjoo Suh
Morgan Lewis
1111 Pennsylvania Avenue, NW
Washington DC 20004



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PATTERSON & SHERIDAN, LLP - - APPM/TX
3040 POST OAK BOULEVARD, SUITE 1500
HOUSTON TX 77056

MAILED

NOV 15 2010

In re Application of
Hunter et al.
Application No. 11/623,238
Filed: January 15, 2007
Attorney Docket No.
APPM/011364/FEP/OXD/AG

**OFFICE OF PETITIONS
DECISION ON PETITION**

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 20, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due, which was mailed June 11, 2010. The Notice of Allowance and Fee (s) Due and the Notice of Allowability set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on September 12, 2010. A Notice of Abandonment was mailed on September 24, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the \$1510 issue and publication fees of \$300, (2) the petition fee of \$1620; and (3) a proper statement of unintentional delay.

Pursuant to petitioner's request deposit account no. 50-1074 will be assessed the \$1,620 petition fee.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to the Office of Data Management for further processing.

Charlema Grant
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/26/11

TO SPE OF : ART UNIT 3742

SUBJECT : Request for Certificate of Correction for Appl. No.: 11623238 Patent No.: 7860379

CofC mailroom date:

2/16/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580**

You can fax the SPE to 571-270-9990

Certificates of Correction Branch

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not apply.**

☐ **Denied**

State the reasons for denial below.

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

TU HOANG
HOANG/____

____/TU

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/25/10 Paper No.: _____
 TO SPE OF : ART UNIT 2629 Wang Quan Zhen (spe)
 SUBJECT : Request for Certificate of Correction for Appl. No.: 11/623388 Patent No.: 7755651

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

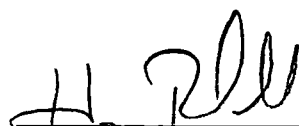
Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D40-A
Palm Location 7580



 Certificates of Correction Branch
 703-756-1571 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes do not apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

APPROVED

By a Eisen at 10:47 am, Mar 30, 2012

/ALEXANDER EISEN/

2629

SPE

Art Unit

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web		PTO/SB/140 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)	
Application Number	11623398	
Filing Date	16-Jan-2007	
First Named Inventor	Cheol-Min Kim	
Art Unit	2629	
Examiner Name	TSEGAYE SEYOUM	
Attorney Docket Number	PNK0385US	
Title	DRIVING DEVICE, DISPLAY DEVICE, AND METHOD OF DRIVING THE SAME	
<p>An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.</p> <p>APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).</p> <p>A grantable petition requires the following items:</p> <p>(1) Petition fee; and</p> <p>(2) One of the following reasons:</p> <p>(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;</p> <p>(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or</p> <p>(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).</p>		
<p>Petition Fee</p> <p><input type="checkbox"/> Applicant claims SMALL ENTITY status. See 37 CFR 1.27.</p> <p><input type="checkbox"/> Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).</p> <p><input type="checkbox"/> Applicant(s) status remains as SMALL ENTITY.</p> <p><input checked="" type="checkbox"/> Applicant(s) status remains as other than SMALL ENTITY</p>		
Reason for withdrawal from issue		

- ☐ One or more claims are unpatentable
- ☒ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees)
- ☐ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).

RCE request, submission, and fee.

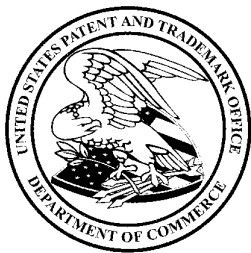
- ☐ I certify, in accordance with 37 CFR 1.4(d)(4) that:
- ☐ The RCE request, submission, and fee have already been filed in the above-identified application on
- ☒ Are attached.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- ☐ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ☐ A sole inventor
- ☐ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors
- ☐ A joint inventor; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/James J. Merrick/
Name	James J. Merrick
Registration Number	43801



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : April 16, 2012

In re Application of :

Cheol-Min Kim

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11623398

Filed : 16-Jan-2007

Attorney Docket No : PNK0385US

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed April 16, 2012 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 2629 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions



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**PABST PATENT GROUP LLP
1545 PEACHTREE STREET NE
SUITE 320
ATLANTA GA 30309**

MAILED
MAR 14 2011
OFFICE OF PETITIONS

In re Patent No. 7,786,347 :
Issue Date: August 31, 2010 :
Application No. 11/623,637 : **DECISION ON PETITION**
Filed: January 16, 2007 :
Attorney Docket No. 24520.22.8403 :

This is a decision on the petition under 37 CFR 1.183 filed October 11, 2010, which is being treated as a petition under 37 CFR 3.81(b) to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent to be issued from the above-identified application.

The request is **GRANTED**.

Petitioner states that the assignee named "Burnham Institute for Medical Research, La Jolla, CA (US)" was not included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

37 CFR 3.81(b), effective June 25, 2004, reads:

After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that “Burnham Institute for Medical Research, La Jolla, CA (US)” and “The Regents of the University of California, Oakland, CA (US)” are the assignees of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Inquiries concerning this decision should be directed to the Michelle R. Eason at (571) 272-4231. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

/Thurman K. Page/
Thurman Page
Petitions Examiner
Office of Petitions

**CERTIFICATION AND REQUEST
FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN** (Page 1 of 2)

Nonprovisional Application Number or Control Number (if applicable): 11/623,776	Patent Number (if applicable):
First Named Inventor: Masahiko OGINO et al.	Title of Invention: PATTERN FORMING METHOD AND ITS MOLD

APPLICANT/PATENTEE/REEXAMINATION PARTY HEREBY CERTIFIES AND REQUESTS THE FOLLOWING FOR THE ABOVE-IDENTIFIED APPLICATION/PATENT/REEXAMINATION PROCEEDING.

1. FOR PATENT APPLICATIONS AND REEXAMINATION PROCEEDINGS PENDING IN THE USPTO AS OF MARCH 11, 2011, IN WHICH A COMMUNICATION FROM THE USPTO IS SOUGHT TO BE REMAILED:
 - a. One or more inventors, an assignee, or a correspondence address (for the application/proceeding) is in an area of Japan affected by the earthquake and/or tsunami of March 11, 2011.
 - b. A reply or response to an Office action (final, non-final, or other), a notice of allowance, or other Office notice (hereinafter collectively referred to as "Office communication") is outstanding on March 11, 2011.
 - c. The statutory or non-statutory time period set for response has not yet expired.
 - d. Withdrawal and reissuance of the Office communication is requested.
 - e. It is acknowledged that if this request is not made within sufficient time so that withdrawal and reissuance of the Office communication occur prior to expiration of the statutory or non-statutory time period (as permitted to be extended under 37 CFR 1.136(a), or as extended under 37 CFR 1.550(c) or 1.956), this request may not be granted.
 - f. The need for the reissuance of the Office communication was due to the effects of the earthquake and/or tsunami of March 11, 2011.
 - g. This request is being sent via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
2. FOR PATENTEES WHO WERE UNABLE TO TIMELY PAY A PATENT MAINTENANCE FEE DURING THE SIX-MONTH GRACE PERIOD FOLLOWING THE WINDOW TO PAY THE MAINTENANCE FEE:
 - a. The original window of time to pay the maintenance fee without the surcharge required by 37 CFR 1.20(h) expired on or after March 11, 2011.
 - b. The delay in paying the fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
 - c. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(h) for paying a maintenance fee during the six-month grace period following the window to pay the maintenance fee.
 - d. This request and payment of the maintenance fee during the six-month grace period following the window to pay the maintenance fee is being mailed to: Director of the United States Patent and Trademark Office, Attn: Maintenance Fee, 2051 Jamieson Avenue, Suite 300, Alexandria, VA 22314; or being transmitted via facsimile to: 571-273-6500.

**CERTIFICATION AND REQUEST
FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN** (Page 2 of 2)

3. FOR PATENTEES WHO NEED TO FILE A PETITION TO ACCEPT A DELAYED MAINTENANCE FEE PAYMENT UNDER 37 CFR 1.378(c):
- a. The maintenance fee payment was required to have been paid after March 10, 2011.
 - b. A petition under 37 CFR 1.378(c) (using USPTO form PTO/SB/66 – Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c))) is being promptly filed accompanied by the applicable maintenance fee payment (but not the surcharge under 37 CFR 1.20(i)).
 - c. The delay in payment of the maintenance fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
 - d. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(i) for accepting a delayed maintenance fee payment.
 - e. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed by March 11, 2012, in order to be entitled to a waiver of the surcharge under 37 CFR 1.20(i).
 - f. It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed within twenty-four months from the expiration date of the patent. See 35 U.S.C 41(c).
 - g. This request and the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) is being submitted via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
4. FOR NONPROVISIONAL PATENT APPLICATIONS FILED WITHOUT AN EXECUTED OATH OR DECLARATION OR PAYMENT OF THE BASIC FILING FEE, SEARCH FEE, AND/OR EXAMINATION FEE:
- a. The nonprovisional patent application was filed on or after March 11, 2011, and prior to April 12, 2011.
 - b. The late filing of the oath or declaration or the basic filing fee, search fee, or examination fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
 - c. The USPTO is requested to *sua sponte* waive the surcharge set forth in 37 CFR 1.16(f) for the late filing of the oath or declaration or basic filing fee, search fee, and/or examination fee.
 - d. This request, together with the executed oath or declaration or the basic filing fee, search fee, or examination fee, as well as the reply to the Notice to File Missing Parts, is being submitted via EFS-Web or by mail directed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature <u>/Inna S. Shestul/</u> <u>I.S</u>	Date <u>May 12, 2011</u>
Name (Print/Typed) <u>Inna S. Shestul</u>	Practitioner Registration Number <u>55,616</u>
<p>Note: Signatures of all the inventors, § 1.41(b) applicants, or assignees of record of the entire interest or their representative(s), or reexamination requesters at the appeal stage are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.</p>	
<input type="checkbox"/> *Total of _____ forms are submitted.	



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

MAILED

MAY 18 2011

OFFICE OF PETITIONS

In re Application of
Masahiko OGINO et al.
Application No. 11/623,776
Filed: January 17, 2007
Attorney Docket No.: 500.47044X00

DECISION ON PETITION

This is a decision on the request filed May 12, 2011, seeking relief under the provisions of "Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners Affected by the Catastrophic Events of March 11, 2011 in Japan," 1365 Off. Gaz. Pat. Office 170 (April 19, 2011).

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on January 28, 2011. The instant petition was filed prior to the expiration of the period for reply and the certifications for granting of relief are considered to be met by the submission of the request.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4914. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This application is being referred to the Technology Center, Art Unit 1746 for re-mailing the Office action of January 28, 2011. The period for reply will run from the mailing date of the Office action.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

FEB 28 2011

OFFICE OF PETITIONS

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
3404 E. HARMONY ROAD
MAIL STOP 35
FORT COLLINS, CO 80528

In re Application of :
Brett Edward Johnson, et al. :
Application No. 11/623,843 : **DECISION ON PETITION**
Filed: January 17, 2007 :
Attorney Docket No. 10982213-3 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 20, 2011, to revive the above-identified application.


This application became abandoned for failure to timely pay the issue and publication fees on or before December 3, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed September 3, 2010. Accordingly, the date of abandonment of this application is December 4, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$1510 and the publication fee of \$300, (2) the petition fee of \$1620; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

This application is being referred to the Office of Data Management for processing into a patent.


April M. Wise
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

MAILED

JUN 10 2011

In re Application of	:	OFFICE OF PETITIONS
Shin YAMAMOTO	:	
Application No. 11/623,861	:	DECISION GRANTING PETITION
Filed: January 17, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 299851US28	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 6, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 20, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2884 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK NY 10036

MAILED

DEC 01 2011

OFFICE OF PETITIONS

In re Patent No. 7,962,134 :
Issue Date: 06/14/2011 :
Application No. 11/623,986 :
Filed: 01/17/2007 :
Attorney Docket No. 4278778-0009 :

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 3.81(b), filed November 17, 2011, to correct the assignment data on the front page of the above-identified patent by way of Certificate of Correction.

Patentees request correction of the front page of the Letters Patent to include the correct assignee data via Certificate of Correction. With the present request, patentees submitted a completed Certificate of Correction form. Furthermore, it is noted that the assignment was recorded with the USPTO prior to the issuance of the patent.

In view of the above, the request under 37 CFR 3.81(b) to correct the assignee data is GRANTED.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction as to the assignment information.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/18/11

TO SPE OF : ART UNIT 1736

SUBJECT : Request for Certificate of Correction for Appl. No.: 11623993 Patent No.: 7850758

CofC mailroom date: 02/07/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

You can fax the Director/SPE response to 571-272-3421

Certificates of Correction Branch

Lamonte Newsome

Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.



Approved

All changes apply.



Approved in Part

Specify below which changes **do not** apply.



Denied

State the reasons for denial below.

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE

/Stanley Silverman/

1

Art Unit

1736

2



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OLIFF & BERRIDGE, PLC.
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

MAILED

NOV 09 2010

OFFICE OF PETITIONS

In re Application of :
Richard P.N. VEREGIN, et al. :
Application No. 11/624,004 : **DECISION GRANTING PETITION**
Filed: January 17, 2007 : **UNDER 37 CFR 1.313(c)(2)**
Attorney Docket No. **129635** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 5, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 7, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 1795 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8-23-11

Paper No.: _____

TO SPE OF : ART UNIT 1775

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/624017 Patent No.: 7981668

CofC mailroom date: 8-19-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Check Claims

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ennis Young
Certificates of Correction Branch
703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: Approved. Ok to enter

/Michael Marcheschi/

1775

SPE

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : April 13, 2012

TO SPE OF : ART UNIT 1656

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/624059 Patent No.: 7767872

Co f C mailroom date: 9-2-10

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580**

Note: _____

Magdalene Talley

Certificates of Correction Branch

571-272-0423 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

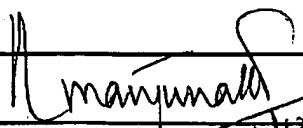
☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____



SPE 4/13/12

1656

Art Unit



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FULBRIGHT & JAWORSKI, LLP
ATTN: MN IP DOCKET
600 CONGRESS AVENUE
SUITE 2400
AUSTIN, TX 78701

MAILED

SEP 07 2010

OFFICE OF PETITIONS

In re Application of :
Udaya Nayanakantha Wanasundara :
Application No. 11/624,064 : DECISION GRANTING PETITION
Filed: January 17, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. POSP-020/CIP :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 3, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 11, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries regarding the examination or status of this application this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1621 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed petition to correct inventorship.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web		PTO/SB/64 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	
Application Number	11624132	
Filing Date	17-Jan-2007	
First Named Inventor	Lance Steward	
Art Unit	1645	
Examiner Name	ALBERT NAVARRO	
Attorney Docket Number	17376CIPCON2 (BOT)	
Title	POST-TRANSLATIONAL MODIFICATIONS AND CLOSTRIDIAL NEUROTOXINS	
<p>The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.</p> <p>APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION</p> <p>NOTE: A grantable petition requires the following items:</p> <ol style="list-style-type: none"> (1) Petition fee; (2) Reply and/or issue fee; (3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications; (4) Statement that the entire delay was unintentional. 		
<p>Petition fee</p> <p>The petition fee under 37CFR 1.17(m) is attached.</p> <p><input type="checkbox"/> Applicant claims SMALL ENTITY status. See 37 CFR 1.27.</p> <p><input type="checkbox"/> Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).</p> <p><input type="checkbox"/> Applicant(s) status remains as SMALL ENTITY.</p> <p><input checked="" type="checkbox"/> Applicant(s) status remains as other than SMALL ENTITY.</p>		
<p>Issue Fee and Publication Fee :</p> <p>Issue Fee and Publication Fee must accompany ePetition.</p> <p><input checked="" type="checkbox"/> Issue Fee Transmittal is attached</p>		
<p>Drawing corrections and/ or other deficiencies.</p>		

- ☒ Drawing corrections and/ or other deficiencies are not required
- ☐ I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on
- ☐ Drawing corrections and/ or other deficiencies are attached.

STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a ☒ grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- ☐ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ☐ A sole inventor
- ☐ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors.
- ☐ A joint inventor; all of whom are signing this e-petition.
- ☐ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/Kenton Abel/
Name	Kenton Abel
Registration Number	49051



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Decision Date : January 18, 2012

In re Application of :

DECISION ON PETITION

Lance Steward

UNDER CFR 1.137(b)

Application No : 11624132

Filed : 17-Jan-2007

Attorney Docket No : 17376CIPCON2 (BOT)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed January 18, 2012 , to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Issue Fee(s) Due. The date of abandonment is the day after the expiration date of the period set for reply in the Notice.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee and the Publication Fee (if necessary); (2) the petition fee as set forth in 37 CFR 1.17 (m); (3) the drawing correction and/or other deficiencies (if necessary); and (4) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being directed to the Office of Data Management.

Office of Petitions



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Alexandria, VA 22313-1450
www.uspto.gov

VISTA IP LAW GROUP, LLP
1885 LUNDY AVENUE
SUITE 108
SAN JOSE, CA 95131

MAILED

OCT 08 2010

OFFICE OF PETITIONS

In re Application of :
Anwar Irmatov, et al. :
Application No. 11/624,176 : DECISION GRANTING PETITION
Filed: January 17, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 05PA069US01RU1 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 6, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 17, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2825 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.



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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED

JAN 12 2011

In re Application of	:	OFFICE OF PETITIONS
George Tsirtsis et al.	:	
Application No. 11/624,181	:	DECISION ON PETITION
Filed: January 17, 2007	:	
Attorney Docket No. 061753	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 9, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 21, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 22, 2009. A Notice of Abandonment was mailed on March 18, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of \$1,620 and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business on the reply received December 9, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions



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Fish & Richardson PC
P.O.Box 1022
Minneapolis MN 55440

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NOV 08 2011

OFFICE OF PETITIONS

In re Patent No. 8,005,822	:
Rechis et al.	:
Issue Date: August 23, 2011	: DECISION ON REQUEST FOR
Application No. 11/624,184	: RECONSIDERATION OF
Filed: January 17, 2007	: PATENT TERM ADJUSTMENT
Atty Docket No. 16113-0269001	: and
	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 24, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by three hundred sixty-one (361) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.**

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **two hundred thirty (230) days.**

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

BACKGROUND

On August 23, 2011, the application matured into U.S. Patent No. 8,005,822, with a revised patent term adjustment of 355 days. On Monday, October 24, 2011, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 361 days. Patentee discloses that pursuant to 37 CFR 1.704(c)(8), a period of reduction of 125 days should have been entered for applicant delay in filing a supplemental information disclosure statement on December 15, 2010, after having filed a reply on August 12, 2010.

Further, Patentee maintains that the Office incorrectly calculated Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b). Patentee contends that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentee argues that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on April 15, 2011, thereby closing examination of the application on that date. Thus, Patentees argue no continued examination took place during the 131-day period from April 15, 2011 (the mailing date of the Notice of Allowance) until August 23, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 131 days and be increased from 206 to 337 days. Patentee concludes that the correct patent term adjustment is 361 days (the sum of 336 days of "A delay" and 337 days of "B delay" minus 0 days of overlap between "A delay" and "B delay" and minus 312 days of applicant delay).

RELEVANT STATUTE AND REGULATIONS

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including -

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);
(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or
(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

- (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
- (2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
- (3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
- (4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
- (5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Patentee's arguments have been considered, but not found entirely persuasive. Patentee is correct that a period of reduction should be entered for the filing of the information disclosure statement on December 15, 2010. Pursuant to 37 CFR 1.704(c)(8), the requested period of reduction of 125 days has been entered.

However, no other correction of the calculation of patent term adjustment is warranted. the Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) as 206 days based on the application having been filed under 35

U.S.C. 111(a) on January 17, 2007 and the patent not having issued as of the day after the three year date, January 18, 2010, and a request for continued examination under 132(b) having been first filed on August 12, 2010. In other words, the period from the date of filing of the request for continued examination to the date of issuance of the patent was not included in calculating the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b). So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C.

132(b) and CFR 1.114. See *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term*, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F.Supp.2d 138, 139, 88 U.S.P.Q.2d, 1538 (D.D.C. 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, inter alia, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii). Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days.

"Consumed by" means used by or used in the course of. Webster's Collegiate Dictionary, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b) (the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued. The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears

that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the issuance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor. As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir. 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect

to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on August 12, 2010, and the patent issued by virtue of that request on August 23, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on August 12, 2010 and ending on August 23, 2011 is not included in calculating Office delay.

CONCLUSION

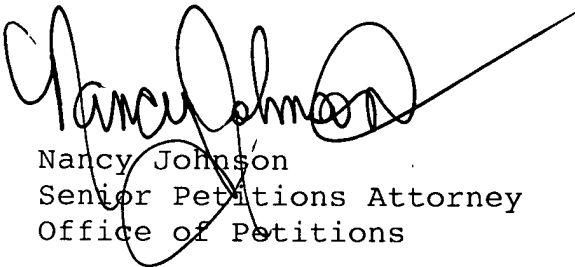
Given the entry of 125 days of applicant delay, the patent should have issued with a revised patent term adjustment of 230 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **two hundred thirty (230) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 8,005,822 B2

DATED : **August 23, 2011**

DRAFT

INVENTOR(S) : Rechis et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 355 days

Delete the phrase “by 355 days” and insert – by 230 days--



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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

MAILED

FEB 27 2012

In re Application of
Scott Jenson, et al.
Application No.: 11/624,189
Filed: January 17, 2007
Attorney Docket No.: 16113-267001 / GP-1025-04

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition, filed February 24, 2012, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 18, 2012, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2163 for further processing of the request for continued examination and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.



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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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APR 08 2011

In re Application of
STREMLER, et al.
Application No. 11/624,193
Filed: January 17, 2007
Attorney Docket No. 40736.0001USD3

**OFFICE OF PETITIONS
DECISION ON PETITION
TO REVIVE**

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b), filed March 28, 2011. The requisite \$810.00 (Small Entity) petition fee has been submitted.

The Petition is **GRANTED**.

The above-identified application was filed with the United States Patent and Trademark Office (USPTO) on January 17, 2007. A non-final Office action was mailed by the USPTO on July 27, 2009. A Notice of Abandonment was subsequently mailed by the USPTO on February 17, 2010 on the basis of "Applicant's failure to timely file a proper reply to the Office letter mailed on 27 July 2009", no reply having been received. The present petition for revival, as previously noted, was filed on March 28, 2011. A reply to the July 27, 2009 non-final Office Action accompanied the present petition.

The present petition satisfies the requirements of 37 CFR 1.137(b) in that the petitioner has supplied (1) the reply in the form of a 37 CFR 1.121 amendment and response to the non-final Office action mailed July 27, 2009; (2) the Small Entity petition fee of \$810.00; and (3) a showing to the satisfaction of the Director that the entire delay was unintentional. As such, it is appropriate to grant the requested revival.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

This application is being referred to Technology Center 3687 for (1) entry of the Amendment and Response To Non-Final Office Action Mailed July 27, 2009, filed with the present petition on March 28, 2001 and (2) continued prosecution on the merits.

Telephone inquiries concerning this decision should be directed to Brian W. Brown at (571) 272-5338.

A handwritten signature in black ink, appearing to be 'B. W. Brown', with a long horizontal flourish extending to the right.

Brian W. Brown
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

James Neil Rodgers
22915 Billy Brown Road
Langley BC V1M 4G3 CA CANADA

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SEP 12 2011

OFFICE OF PETITIONS

In re Application of	:	
Rodgers	:	
Application No.11/624,215	:	DECISION ON PETITION
Filed: January 18, 2007	:	
Title: STOLEN BICYCLE (MISSING	:	
CHATTEL) IDENTIFICATION, TRACKING	:	
AND LOCATION; A SYSTEM AND	:	
METHOD	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 7, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 29, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 30, 2010.

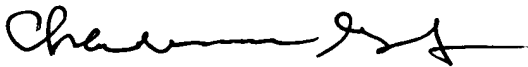
The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and fee; (2) the petition fee of \$810.00; and (3) a proper statement of unintentional delay.

It should be noted that the Notice of Appeal and accompanying fee submitted on July 9, 2010 were untimely, as the maximum period of reply to the final Office action expired June 29, 2010. Further since a request for extension of time and the required fee were not submitted the application was abandoned at the end of the shortened statutory period on March 30, 2010. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

Since this application was abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action of December 29, 2009 within the extendible six month period provided, the Examiner had no procedural authority with respect to the abandoned application. See Lorenz v. Finkl, 333 F.2d 885, 891, 142 USPQ 26, 30 (CCPA 1964). Therefore, the examiner was without authority to act further in the case absent a grantable petition reviving the application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 2612 for review of the appeal brief and fee submitted on July 9, 2010.

A handwritten signature in black ink, appearing to read 'Charlema Grant', followed by a horizontal line.

Charlema Grant
Attorney Advisor
Office of Petitions



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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

MAILED
APR 07 2011
OFFICE OF PETITIONS

In re Patent No. 7,631,722 :
Issue Date: December 15, 2009 :
Application No. 11/624,286 : **DECISION ON PETITION**
Filed: January 18, 2007 :
Attorney Docket No. 056203.58704US :

This is a decision on the Request For Certificate Of Correction Under 37 C.F.R. §1.323 and Request For Issuance Of Patent To Assignee Under 37 C.F.R. §3.81(b), filed March 11, 2010, which is being treated as a Petition Under 37 CFR §3.81(b), to accept the omission of assignee's name and residence. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner requests that the present Petition was submitted to add the omission of assignee's name and residence on the previously submitted PTOL-85B and such error was a clerical mistake. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to add the omitted assignee's name and residence to the Title Page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

U.S. Patent No. 7,631,722
Application No. 11/624,286
Decision on Petition under 37 CFR 3.81

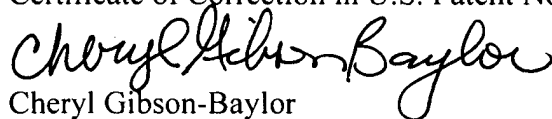
Page 2

The requisite \$100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), and the requisite \$130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR §3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form (PTO/SB/44) that was submitted with Petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703)756-1814.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,631,722.

A handwritten signature in black ink, reading "Cheryl Gibson-Baylor". The signature is fluid and cursive, with the first name "Cheryl" and last name "Baylor" being more prominent than the middle name "Gibson".

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions



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OLIVER CHARLES LAWLESS
6910 DEER VALLEY RD.
HIGHLAND MD 20777

MAILED

MAR 07 2011

OFFICE OF PETITIONS

In re Application of
Oliver Charles Lawless
Application No. 11/624,293
Filed: January 18, 2007
Title of Invention: INTEGRATED
PRESCRIPTION MANAGEMENT AND
COMPLIANCE SYSTEM

ON PETITION

This is a decision on the petition filed January 28, 2011 under 37 CFR 1.137(b),¹ to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed May 24, 2010. A shortened statutory period of three months was set for replying to the non-Final Office Action. Accordingly, a Notice of Abandonment was mailed January 12, 2011.

This matter is being referred to Technology Center 3686 for appropriate action on the amendment filed November 24, 2010.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

¹Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).



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**OLIVER CHARLES LAWLESS
6910 DEER VALLEY RD.
HIGHLAND MD 20777**

MAILED

SEP 23 2011

OFFICE OF PETITIONS

In re Application of :
Oliver Charles Lawless :
Application No. 11/624,293 : **DECISION ON REQUEST FOR REFUND**
Filed: January 18, 2007 :
For: INTEGRATED PRESCRIPTION :
MANAGEMENT AND COMPLIANCE :
SYSTEM :

This is a decision on the Request For Refund filed August 30, 2011 and again on August 31, 2011.

The request is **GRANTED**.

Applicant files the above request for refund and states that "I would like to request a refund in the amount of \$310 for the 3rd month extension fee under Form 22 – Extension of Time to File an Office Action Reply Under 37 CFR 1.136(a). My Reply to Examiner Phongsvirajati's Office Action for Application No. 11/624,293 (Integrated Prescription Management and Compliance System) was due on November 24, 2010. My reply was filed on time via EPS and I previously submitted extensions at the 1 month and 2 month intervals via regular mail. However, the electronic EFS system instructs users not to submit Form PTO-2038 containing credit card information via this system, as it is published and made public record via the PAIR system. As such, I filed all the correct documentation on time via EFS, but waited to fax in the credit card form for the 3rd month extension so it wouldn't appear in PAIR."

Applicant further states that "My payment was subsequently received and processed, but the USPTO caused my application to go abandoned nonetheless because although all the forms were received on time the credit card information for payment of the 3rd month extension was not. As a consequence, I was required to submit a Petition to Revive the application and paid another \$810.00 to revive it."

However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631

(Comm'r Pats. 1988). Since the \$310.00 extension of time fee was subsequent to the maximum extendable period for reply, this fee will be credited to applicant's credit card account as requested.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions



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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

In re Application of
WARTOFSKY, DAVID J., et al.
Application No. 11/624,311
Filed: January 18, 2007
Attorney Docket No.: 1830.2002-000

DEC 20 2010
DECISION ON PETITION

This is a decision on the Petition To Withdraw Holding Of Abandonment Based On Failure To Receive Office Action, received in the United States Patent and Trademark Office (USPTO) on June 18, 2010.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit the Issue fee and Publication fee as required by the Notice of Allowance, mailed February 24, 2010 which set forth a three (3) month statutory period for reply. The Notice of Abandonment was mailed on June 15, 2010.

Petitioner attests that the Notice of Allowance and Fees due mailed on May 24, 2010 was not received. Petitioner submitted a copy of the docketing record for this application as documentary proof of non- receipt. Petitioner also included a statement that the Notice was not received at the correspondence address of record.

Accordingly, the holding of abandonment is hereby withdrawn and the application restored to pending status. The application will be forwarded to the Technology Center for the mailing of new Notice of Allowance.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management



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OCT 27 2011

OFFICE OF PETITIONS

MOTOROLA MOBILITY, INC
600 NORTH US HIGHWAY 45
W2-55BB
LIBERTYVILLE IL 60048-5343

In re Application of :
John M. HARRIS et al. : **ON PETITION**
Application No. 11/624,407 :
Filed: January 18, 2007 :
Atty. Docket No.: CE15025R :

This is a decision on the petition under 37 CFR 1.137(b), filed October 17, 2011, to revive the above-identified application.


The petition is **GRANTED**.

The application became abandoned for failure to respond in a timely manner to the Requirement for Restriction/Election mailed April 19, 2011 (Office action), which set a shortened period for reply of one (1) month, or 30 days, whichever was less. The application became abandoned May 20, 2011. A Notice of Abandonment was mailed October 7, 2011.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Response to the Office action mailed April 19, 2011, (2) a petition fee of \$1860, and (3) a statement of unintentional delay. The reply to the Office action is accepted as having been unintentionally delayed.

Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

The application will be referred to Technology Center Art Unit 2614 for consideration of the filed Response.

for 
Anthony Knight
Director
Office of Petitions



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**BANNER & WITCOFF, LTD
AND ATTORNEYS FOR CLIENT NUMBER 011738
10 SOUTH WACKER DRIVE
SUITE 3000
CHICAGO, IL 60606**

**MAILED
APR 21 2011
OFFICE OF PETITIONS**

In re Application	:	
Ivan Osorio	:	DECISION ON PETITION
Application No. 11/624,590	:	TO WITHDRAW
Filed: January 18, 2007	:	FROM RECORD
Attorney Docket No. 539.3179.1	:	


This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 5, 2011.

The request is **DISMISSED** because it is moot.

A review of the file record indicates that Banner & Witcoff, LTD, was revoked as attorney of record on April 6, 2011, by the assignee of record. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address of record until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.


Alicia Kelley
Petitions Examiner
Office of Petitions

cc: FREDRIKSON & BYRON, P.A.
INTELLECTUAL PROPERTY GROUP, MDT PATENTS
200 SOUTH SIXTH STREET, SUITE 4000
MINNEAPOLIS, MN 55402



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Fredrikson & Byron, P.A.
Intellectual Property Group, MDT Patents
200 South Sixth Street, Suite 4000
Minneapolis MN 55402

MAILED

MAR 12 2012

OFFICE OF PETITIONS

In re Application of	:	
Ivan Osorio	:	
Application No. 11/624,590	:	DECISION ON PETITION
Filed: January 18, 2007	:	TO WITHDRAW
Attorney Docket No. 539.3179.1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed March 7, 2012.

The request is **NOT APPROVED**.

A review of the file record indicates that Charles W. Shifley does not have power of attorney or was ever given power of attorney in the above-identified application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the address of record until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Charles W. Shifley
10 South Wacker Drive, Suite 3000
Chicago, IL 60606



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MAILED

DEC 08 2011

OFFICE OF PETITIONS

In re Application of
Jun Ho Kim
Application No. 11/624,602
Filed: 01/18/2007
Attorney Docket No. 1328.037

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 3, 2011, to revive the application.

The petition is **GRANTED**.

The application became abandoned for failure to file a timely and proper reply within the meaning of 37 CFR 1.113 to the final Office action of September 8, 2010, which set a three-month shortened statutory period for response. No extensions of time for response were obtained. Accordingly, the application became abandoned on December 9, 2010. A Notice of Abandonment was mailed on March 25, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that applicant has supplied (1) the reply in the form of a RCE, the RCE fee, and the submission required by 37 CFR 1.114; (2) the petition fee; and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 2876 for processing of the RCE and for appropriate action by the Examiner on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**Dr. BANGER SHIA
PATENT OFFICE OF BANG SHIA
102 LINDENCREST CT.
SUGAR LAND TX 77479-5201**

MAILED

SEP 10 2010

OFFICE OF PETITIONS

In re Application of
Huasong Zhou
Application No. 11/624.639
Filed: January 18, 2007
Attorney Docket No. **SW-971335 (S-58)**

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: **DECISION ON PETITION**
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This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 09, 2010, to revive the above-identified application.

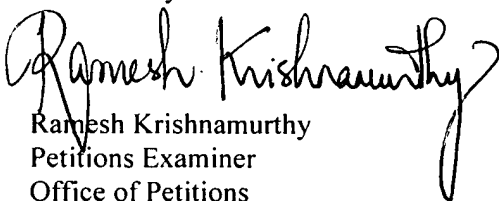
The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 30, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 01, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of \$810, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of January 30, 2009 is accepted as being unintentionally delayed

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 3752 for appropriate action on the concurrently filed amendment.


Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions



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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED

FEB 02 2012

In re Application of
Kim, et al.
Application No. 11/624,646
Filed: January 18, 2007
Attorney Docket No. 051128

OFFICE OF PETITIONS
:
:
: DECISION ON PETITION
:
:

The above-identified application has been referred to the Office of Petitions with respect to the petition filed January 18, 2012 to correct the spelling of inventor Wei's name and for issuance of a corrected filing receipt.

The petition is **DISMISSED AS MOOT**.

It is noted that the examiner of record has entered the corrected change. It is noted that the requested corrected filing receipt was mailed January 31, 2012. Accordingly, further action by the Office of Petitions is not deemed warranted.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3205.

The matter is being forwarded to the Office of Data Management for further processing.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions



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Commissioner for Patents
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MOTOROLA MOBILITY, INC
600 NORTH US HIGHWAY 45
W2-55BB
LIBERTYVILLE, IL 60048-5343

MAILED

JAN 26 2011

OFFICE OF PETITIONS

In re Application of
Apostolis K. Salkintzis
Application No. 11/624,731
Filed: January 19, 2007
Attorney Docket No. CS28444P

:
:
: **DECISION ON PETITION**
:
:

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 21, 2010, to revive the above-identified application.


The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 5, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 6, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of \$1620, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business on the reply received December 21, 2010


April M. Wise
Petitions Examiner
Office of Petitions



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HARRITY & HARRITY, LLP
11350 Random Hills Road
SUITE 600
FAIRFAX VA 22030

MAILED
DEC 05 2011

OFFICE OF PETITIONS

In re Application of :
Mark A. Wolfe :
Application No. 11/624,817 :
Filed: January 19, 2007 :
Attorney Docket No. **0026-0303CON4** :

NOTICE

This is a notice regarding your request filed November 21, 2011, for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions



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P.O. Box 1450
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www.uspto.gov

In re Application of
Ralph Zuckerman

Application No. 11624820

Filed: January 19, 2007

Attorney Docket No. 92856.00017

:
:

:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)

:

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1), filed 24-MAY-2011 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquiries concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

Doc code : PET.OP.AGE

Description : Petition to make special based on Age/Health

PTO/SB/130 (07-09)

Approved for use through 07/31/2012. OMB 0651- 0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)					
Application Information					
Application Number	11624820	Confirmation Number	7341	Filing Date	2007-01-19
Attorney Docket Number (optional)	092856.00017	Art Unit	1657	Examiner	S. K. Singh
First Named Inventor	Ralph Zuckerman				
Title of Invention	METHOD AND APPARATUS FOR THE NON-INVASIVE MEASUREMENT OF TISSUE FUNCTION AND METABOLISM BY DETERMINATION OF STEADY-STATE FLUORESCENCE ANISOTROPY				
Attention: Office of Petitions An application may be made special for advancement of examination upon filing of a petition showing that the applicant is 65 years of age, or more. No fee is required with such a petition. See 37 CFR 1.102(c)(1) and MPEP 708.02 (IV). APPLICANT HEREBY PETITIONS TO MAKE SPECIAL FOR ADVANCEMENT OF EXAMINATION IN THIS APPLICATION UNDER 37 CFR 1.102(c)(1) and MPEP 708.02 (IV) ON THE BASIS OF THE APPLICANT'S AGE. A grantable petition requires one of the following items: (1) Statement by one named inventor in the application that he/she is 65 years of age, or more; or (2) Certification by a registered attorney/agent having evidence such as a birth certificate, passport, driver's license, etc. showing one named inventor in the application is 65 years of age, or more.					
Name of Inventor who is 65 years of age, or older					
Given Name	Middle Name	Family Name	Suffix		
Ralph		Zuckerman			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the format of the signature. Select (1) or (2) :					
<input type="radio"/> (1) I am an inventor in this application and I am 65 years of age, or more.					
<input checked="" type="radio"/> (2) I am an attorney or agent registered to practice before the Patent and Trademark Office, and I certify that I am in possession of evidence, and will retain such in the application file record, showing that the inventor listed above is 65 years of age, or more.					
Signature	/Kenneth Ma 63,839/		Date (YYYY-MM-DD)	2011-05-24	
Name	Kenneth Ma		Registration Number	63839	

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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IP Patent Docketing
K&L GATES LLP
599 Lexington Avenue
33rd Floor
New York NY 10022-6030

MAILED

SEP 27 2010

In re Application of
Samuel Cabot Cochran et al.
Application No. 11/624,854
Filed: January 19, 2007
Attorney Docket No. 0811040.0101

OFFICE OF PETITIONS

**DECISION ON PETITION
TO WITHDRAW
FROM RECORD**

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 12, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Andrew L. Reibman on behalf of all attorneys/agents associated with customer 00545. All attorneys/agents associated with customer number 00545 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address has been changed and is copied below.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Samuel Cabot Cochran
Teresita Cochran
SMIT, Sustainably Minded Interactive Technology, LLC,
63 Flushing Avenue Unit 195 Building 280, Suite 515
Brooklyn, NY 11205



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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/624,854	01/19/2007	Samuel Cabot COCHRAN	0811040.0101

CONFIRMATION NO. 7405

POWER OF ATTORNEY NOTICE



OC000000043713370

545
IP Patent Docketing
K&L GATES LLP
599 Lexington Avenue
33rd Floor
New York, NY 10022-6030

Date Mailed: 09/27/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/12/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/31/11

TO SPE OF : ART UNIT 2153

SUBJECT : Request for Certificate of Correction for Appl. No 11/624,860: 7437412

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Should the change(s)
Be made?

RoChaun Johnson

Certificates of Correction Branch

571 272-0470

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

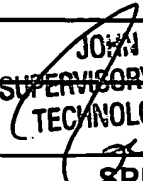
☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____


JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100
SPE

2451

Art Unit



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450

SEAN KAUFHOLD
P. O. BOX 89626
SIOUX FALLS SD 57109

MAILED
MAY 10 2011
OFFICE OF PETITIONS

In re Application of	:	
David B. STABLER	:	DECISION GRANTING PETITION
Application No. 11/624,900	:	UNDER 37 CFR 1.137(b)
Filed: January 19, 2007	:	
Atty. Docket No.: ROK334	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 24, 2011, to revive the above-identified application.

The petition is **GRANTED**.

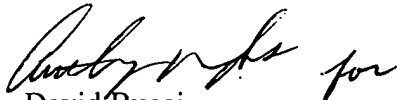
The application became abandoned for failure to pay the Issue fee as required in the Notice of Allowance and Issue Fee mailed June 16, 2010, which set a period of reply of three (3) months. The application became abandoned on September 17, 2010, and a Notice of Abandonment was mailed October 6, 2010.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) the issue fee of \$755, (2) a petition fee of \$810, and (3) a statement of unintentional delay. The payment of the issue fee is accepted as having been unintentionally delayed.

37 CFR 1.37(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Examiner, Office of Petitions (571-272-8427).

The application file will be referred to the Office of Data Management.


David Bucci
Petitions Examiner
Office of Petitions



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P.O. Box 1450
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DEC 09 2010

OFFICE OF PETITIONS

**CLEARPLAY, INC.
C/O LEE JARMAN
5284 SOUTH COMMERCE DRIVE, SUITE C-134
SALT LAKE CITY UT 84107**

In re Application of :
Matthew I. Jarman :
Application No. 11/625,071 :
Filed: January 19, 2007 :
Attorney Docket No. 187363/US/2 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 6, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed January 22, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of \$810.00; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/841,978, filed July 22, 2010.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See In re Application of S.*, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$555.00 extension of time fee submitted with the petition on August 6, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions



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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

MAILED

DEC 01 2010

OFFICE OF PETITIONS

In re Application of

VESCOVI, Marcos et al.

Application No. 11/625,084

Filed: January 19, 2007

Attorney Docket No. **30000476-0002**

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**DECISION ON PETITION
TO WITHDRAW
FROM RECORD**

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 09, 2010.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Glenn Patent Group has been revoked by the assignee of the patent application on November 22, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **GREENBERG TRAURIG, LLP (SV)
IP DOCKETING
2450 COLORADO AVENUE
SUITE 400E
SANTA MONICA CA 90404**



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JAN 11 2011

OFFICE OF PETITIONS

**GREENBERG TRAURIG, LLP (SV)
IP DOCKETING
2450 COLORADO AVENUE
SUITE 400E
SANTA MONICA CA 90404**

In re Application of	:	
Marcus Vescovi et al.	:	
Application No. 11/625,084	:	NOTICE
Filed: January 19, 2007	:	
Attorney Docket No. 30000476-0002	:	

This is in response to the paper filed November 29, 2010 under 37 CFR 1.27(c) seeking status as a small entity.

The statement claiming small entity status of November 29, 2010 has been made of record and small entity status has been accorded.

A request for a refund of \$245 will be credited back to petitioner's deposit account.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application file is being forwarded to Technology Center 2129.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

cc: John P. Ward
Greenberg Traurig, LLP
1900 University Avenue, Fifth Floor
East Palo Alto, CA 94303

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120411

DATE : April 11, 2012

TO SPE OF : ART UNIT 3655

SUBJECT : Request for Certificate of Correction on Patent No.: 7,455,617

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Certificates of Correction Branch - ST (South Tower) 9A22

Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments:

/DAVID D LE/
Supervisory Patent Examiner.Art Unit 3655
04/11/2012



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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April 27, 2011

JHK LAW
P.O. BOX 1078
LA CANADA CA 91012-1078

In re Application of	:	
Mi-Sook Chang et al.	:	DECISION ON PETITION
Application No. 11625189	:	
Filed: 1/19/2007	:	ACCEPTANCE OF COLOR
Attorney Docket No. 58049-00038	:	DRAWINGS

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R. 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) August 17, 2010.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquiries relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Don Fairchild/
Office of Data Management
Publications Branch



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

8/9/2010
Patent No. :7743567
Inventor(s) :Buhrts
Issued :6/29/2009
Title :FIBERGLASS/CELLULOSIC COMPOSITE AND METHOD FOR
MOLDING
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals table 1 column 9 composition #6 is printed in accordance with the record please show evidence of supporting data and/or a fee for \$100 amendment. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

STANDLEY LAW GROUP LLP
6300 Riverside Drive
Dublin, Ohio 43017

HR

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120402

DATE : April 02, 2012

TO SPE OF : ART UNIT 3635

SUBJECT : Request for Certificate of Correction on Patent No.: 7,743,567

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Certificates of Correction Branch - ST (South Tower) 9A22

Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments:

/JOSHUA J MICHENER/
Supervisory Patent Examiner.Art Unit 3635



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JUL 20 2011

OFFICE OF PETITIONS

GENENTECH, INC.
1 DNA WAY
SOUTH SAN FRANCISCO CA 94080

In re Application of	:	
Phillips	:	
Application No. 11/625,272	:	ON APPLICATION FOR
Filed: January 19, 2007	:	PATENT TERM ADJUSTMENT
Attorney Dkt No.: P5103R1C1	:	
For: COMPOSITIONS AND METHODS	:	
FOR THE DIAGNOSIS AND TREATMENT	:	
OF TUMORS OF GLIAL ORIGIN	:	

This is in response to the petition filed June 16, 2011, which is being treated under 37 CFR 1.705(b).

The request for review of the patent term adjustment is
DISMISSED.

On March 17, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is one hundred seventeen (117) days.

Applicants contend that the patent term should be reduced by an additional 62 days. Applicants state that instead of 30 days a total reduction of 92 days is required for the submission of the response on December 19, 2008 in reply to the August 19, 2008 Office action.

The Office has considered applicant's argument but does not find it persuasive. The Office has concluded that the reduction of 30 days was properly entered based on 37 CFR 1.704(b).

37 CFR §1.704(b) provides:

an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such

three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in §1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed.

In this instance, a reduction of 30 days for the submission of reply on December 19, 2008 is warranted. The PTA was properly reduced by 30 days, the number of days in excess of three months that was taken to reply to the August 19, 2008 restriction requirement. In this instance although the restriction requirement set a one month shortened statutory period, the patent term adjustment is still calculated if any beginning three months after the date of mailing. Accordingly the delay is calculated from November 20, 2008 and ends on December 19, 2008.

Applicants delay totals 132 (30 + 32 + 70) days. Office delay totals 249 days.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is one hundred seventeen (117) days.

The \$200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed from deposit account no. 07-0630. The fee set forth in 37 CFR 1.18(e) is required. No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3215.

A handwritten signature in cursive script, appearing to read "Charlema Grant", with a stylized flourish at the end.

Charlema Grant
Attorney
Office of Petitions



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JAN 18 2011

OFFICE OF PETITIONS

**Michael A. O'Neill
Michael A. O'Neill, P.C.
Suite 820
5949 Sherry Lane
Dallas TX 75225**

In re Application of	:	
Arunkumar Ganapathi Pulianda	:	
Application No. 11/625,364	:	DECISION ON PETITION
Filed: January 22, 2007	:	TO WITHDRAW
Attorney Docket No. 120375-1004	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 27, 2010.

The request is **DISMISSED AS MOOT**.

In view of the notification of the death of the attorney or agent of record, the power of attorney is terminated. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

A new registered attorney or agent may be appointed, when further notified by the applicant.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Mr. Andy Pulianda
2805 Cape Brett Drive
Flower Mound, TX 75022

cc: Kelly J. Kubasta
8150 N. Central Expressway; Suite 1150
Dallas, TX 75206



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MOTOROLA MOBILITY, INC
600 NORTH US HIGHWAY 45
W2-55BB
LIBERTYVILLE, IL 60048-5343

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JUN 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Sean M. McBeath, et al.	:	
Application No. 11/625,380	:	ON PETITION
Filed: January 22, 2007	:	
Attorney Docket No. CS28799	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 24, 2011, to revive the above-identified application.

The petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Steven A. May appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that petitioner is authorized to represent the particular party on whose behalf he acts.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 8, 2010, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on January 9, 2011. This decision precedes the mailing of a Notice of Abandonment. On May 24, 2011, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of \$1,620; and (3) an adequate statement of unintentional delay¹

¹ 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

This application is being referred to Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business on the reply received May 24, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Doc Code: PET.PTA.RCAL

Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)

Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH*

Attorney Docket Number: 102719.58688US

Patent Number: 7,659,699

Filing Date (or 371(b) or (f) Date): January 22, 2007

Issue Date: February 09, 2010

First Named Inventor: Friedrich BOEBEL

Title: Battery

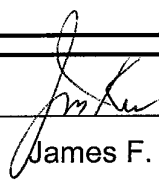
PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-WYETH INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

*Wyeth v. Kappos, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature



Date August 3, 2010

Name (Print/Typed) James F. McKeown

Registration Number 25,406

Note: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.

☒ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1 450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 10/07/2010

Applicant	: Friedrich BOEBEL	: DECISION ON REQUEST FOR
Patent Number	: 7659699	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/625,439	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/22/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **385** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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INNOVATION DIVISION
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK NY 10022

MAILED
DEC 29 2011
OFFICE OF PETITIONS

In re Application of :
Gelman et al. :
Application No. 11/625,508 : **DECISION ON PETITION**
Filed: January 22, 2007 :
Attorney Docket No. 06-2045 :

This is a decision on the petition, filed September 26, 2011, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). A Notice of Abandonment was mailed on September 14, 2011, stating, "Applicant's failure to file an appeal brief within six months from filing notice of appeal (02/28/11)."

Petitioner asserts that the Notice of Abandonment was premature.

Petitioner states, "A Notice of Appeal for application was on February 28, 2011. 37 C.F.R. 41.37(a) provides two months from the date of the Notice of Appeal to file an appeal brief, which time for reply is extendable for up to five months under 37 C.F.R. 1.136(a). Accordingly, Application have until September 28, 2011 to file an appeal brief."

Petitioner is correct in that the Notice of Abandonment was issued prematurely. As petitioner has submitted a five (5) month extension of time with the instant petition, and prior to September 28, 2011, the holding of abandonment is hereby withdrawn and the application restored to pending status.

Petitioner has submitted a Request for Continued Examination (RCE), along with an Amendment/Submission, with the instant petition. Accordingly, the application is being referred to Technology Center AU 2176 for processing of the RCE.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions



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HALLIHAN IP PARTNERS, LLC
117 N. JEFFERSON STREET
SUITE 200
CHICAGO IL 60661

MAILED

FEB 04 2011

OFFICE OF PETITIONS

In re Application of :
Stallings :
Application No. 11/625,534 :
Filed/Deposited: 22 January, 2007 :
Attorney Docket No. 111228.00009 :
DECISION

This is a decision on the petition filed on 5 October, 2010, considered as a petition pursuant to 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application .

The petition pursuant to 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision should be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition pursuant to 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing and timeliness requirements set forth there.

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

UIC

Application No. 11/625,534

Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly, to non-final Office action mailed on 9 December, 2009, with reply due absent extension of time on or before 9 March, 2010.

The application went abandoned by operation of law after midnight 9 March, 2010.

The Office mailed the Notice of Abandonment on 16 July, 2010.

On 5 October, 2010, Petitioner filed a petition pursuant to 37 C.F.R. §1.181 and averred there timely reply—ignoring the timeliness requirement to seek relief under the Rule (*see*: the guidance in the Commentary at MPEP §711.03(c)(I)).

Thus, it appears that Petitioner did not comply with the guidance as set forth below in the citation from the Manual of Patent Examining Procedure (MPEP).

With regard to Petitioner's request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, the guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part:

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard

receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512.¹

As noted above,, Petitioner's reply to the Notice of Abandonment is late under the rule (37 C.F.R. §1.181), and Petitioner is reminded of the guidance set forth in the Commentary at MPEP §711.03(c) (in pertinent part):

C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

37 C.F.R. 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 C.F.R. §1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 C.F.R. §1.181(f).

¹ See: MPEP §711.03(c) (I)(B).

Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 C.F.R. §1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

3. Utility and Plant Applications Filed on or After May 29, 2000

In utility and plant applications filed on or after May 29, 2000, a terminal disclaimer should **not** be required as a condition of granting an untimely petition to withdraw the holding of abandonment. This is because any patent term adjustment is automatically reduced under the provisions of 37 C.F.R. §1.704(c)(4) in applications subject to the patent term adjustment provisions of the American Inventors Protection Act of 1999 (AIPA) if a petition to withdraw a holding of abandonment is not filed within two months from the mailing date of the notice of abandonment, and if applicant does not receive the notice of abandonment, any patent term adjustment is reduced under the provisions of 37 C.F.R. §1.704(a) by a period equal to the period of time during which the applicant "failed to engage in reasonable efforts to conclude prosecution" (processing or examination) of the application.

Where the record indicates that the applicant intentionally delayed the filing of a petition to withdraw the holding of abandonment, the Office may simply dismiss the petition as untimely (37 C.F.R. §1.181(f)) solely on the basis of such intentional delay in taking action in the application without further addressing the merits of the petition. Obviously, intentional delay in seeking the revival of an abandoned application precludes relief under 37 C.F.R. §1.137(a) or (b) (***).

Because Petitioner is unable to comply with and/or otherwise satisfy these requirements, Petitioner may wish to revive the application: Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See:

http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation—since all owe to the Office the continuing duty to disclose.²

² See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Application No. 11/625,534

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).³ The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.⁴)

Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears not to have made the showing of timeliness required.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay

³ 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

⁴ Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Application No. 11/625,534

pursuant to 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Petitioner is reminded that continued failure to file timely a petition to revive pursuant to 37 C.F.R. §1.137(b) may be considered delay that is other than unintentional.

Further correspondence with respect to this matter should be addressed as follows:

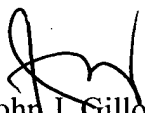
By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By facsimile: **(571) 273-8300**
 Attn: Office of Petitions

Application No. 11/625,534

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2⁵) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).


/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

⁵ The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS CO 80528

In re Application of
TAYLOR, GARY L.

Application No.: 11/625,562

Filing or 371(c) Date: January 22, 2007

Attorney Docket Number: 200504749-1

NOV -3 2010

:
: DECISION ON
: PETITION
:

This is a decision on the Petition to Withdraw Holding of Abandonment received in the United States Patent and Trademark Office (USPTO) on November 1, 2010.

This petition is **GRANTED**.

The application was inadvertently abandoned for failure to timely submit the Issue Fee and Publication fee as required by the Notice of Allowance, mailed June 4, 2010 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on September 28, 2010.

Petitioner states that the issue fee transmittal and payment were timely filed via the USPTO on August 26, 2010. Petitioner submitted a copy of the original submission which included a properly completed Certificate of Mailing/Transmission. As authorized, the issue fee of \$1,510 and publication fee of \$300 was charged to Deposit Account.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

IP Management Systems, LLC
P.O. Box 74
Newton Falls, OH 44444

MAILED

JUN 16 2011

OFFICE OF PETITIONS

In re Application of Davis :
Application No. 11/625,577 :
Filing Date: January 22, 2007 :
For: Search Engine for Facilitating the :
Sale, Transfer, and/or Assignment of :
Intellectual Property :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(a) filed May 25, 2011, which is filed in the alternative under 37 CFR 1.137(b). This is also a decision on petition under 37 CFR 1.182 requesting expedited consideration of the petition to revive.

The petition under 37 CFR 1.137(a) is **dismissed**.

The petition under 37 CFR 1.137(b) is **dismissed**.

The petition under 37 CFR 1.182 is **granted**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time are permitted under 37 CFR 1.136(a). The reconsideration request should include a cover letter titled "Renewed Petition under 37 CFR 1.137(b)."

Facts Pertaining to the Instant Application

A declaration was filed February 27, 2007. The inventor's signature on the declaration is dated February 21, 2007. The declaration gives a power of attorney to Daniel A. Thomson and identifies the inventor's mailing address as: 736 Kenmore Avenue SE, Warren, OH 44484 ("Kenmore Address").

Thomson filed a request to withdraw as attorney or agent of record on March 21, 2007. The request stated, "I have delivered to the client all files for which I was responsible and information she has given me." The request indicated the Office should send future correspondence to the inventor at the Kenmore Address.

A decision granting the March 21, 2007 request was mailed June 29, 2007. A copy of the decision was mailed to the inventor at the Kenmore Address. The decision stated all future correspondence would be sent to the inventor at the Kenmore Address.

The Office mailed a non-final Office action to the Kenmore Address on July 29, 2009. The Office action set a shortened statutory period for reply of three months. The Office did not receive a reply or a request for an extension of time. As a result, the application became abandoned on October 30, 2009. The Office mailed a Notice of Abandonment on May 14, 2010.

Facts Pertaining to Application No. 11/625,618

A declaration was filed February 27, 2007. The inventor's signature on the declaration is dated February 21, 2007. The declaration gives a power of attorney to Daniel A. Thomson and identifies the inventor's mailing address as: 736 Kenmore Avenue SE, Warren, OH 44484 ("Kenmore Address").

Thomson filed a request to withdraw as attorney or agent of record on March 21, 2007. The request stated, "I have delivered to the client all files for which I was responsible and information she has given me." The request indicated the Office should send future correspondence to the inventor at the Kenmore Address.

A decision granting the March 21, 2007 request was mailed June 29, 2007. A copy of the decision was mailed to the inventor at the Kenmore Address. The decision stated all future correspondence would be sent to the inventor at the Kenmore Address.

The Office mailed a Notification of Publication of Application to the Kenmore Address on August 28, 2008. The notification was returned undelivered on September 17, 2008. The returned envelope included a notation added by the United States Postal Service ("USPS") indicating the forwarding time for mail sent to the address had expired.

The Office mailed a non-final Office action to the Kenmore Address on October 16, 2008. The Office action set a shortened statutory period for reply of three months. The Office did not receive a reply or a request for an extension of time. As a result, the application became abandoned on January 17, 2008. The Office action was returned undelivered on October 22, 2008. The returned envelope included a notation added by the USPS indicating the forwarding time for mail sent to the address had expired.

Facts Pertaining to Application No. 11/625,635

A declaration was filed February 27, 2007. The inventor's signature on the declaration is dated February 21, 2007. The declaration gives a power of attorney to Daniel A. Thomson and identifies the inventor's mailing address as: 736 Kenmore Avenue SE, Warren, OH 44484 ("Kenmore Address"). The declaration stated correspondence should be sent to the address associated with Customer No. 26781 ("Thomson Address").

Thomson filed a request to withdraw as attorney or agent of record on March 21, 2007. The request stated, "I have delivered to the client all files for which I was responsible and information she has given me." The request indicated the Office should send future correspondence to the inventor at the Kenmore Address.

The Office mailed a Notification of Publication of Application to the Thomson Address on August 9, 2007.

The Office mailed a non-final Office action to the Thomson address on September 12, 2007. The Office action set a shortened statutory period for reply of three months. The Office did not receive a reply or a request for an extension of time. As a result, the application became abandoned on December 13, 2007.

The Office issued a Notice of Abandonment on May 2, 2008. The Office sent an e-mail to Thomson's law firm notifying the firm of the issuance of the Notice of Abandonment on May 2, 2008.

A second request for withdrawal as attorney or agent was filed July 17, 2008. The request is signed by John M. Skeriotis, who does not appear to have ever been given a power of attorney or agent.

As a result of the July 17, 2008 request, the Office changed the correspondence address of record to the Kenmore address and sent a letter to the Kenmore address on July 23, 2008 indicating future correspondence involving the application would be mailed to the Kenmore address. The letter was returned undelivered on August 4, 2008. The returned envelope included a notation added by the USPS indicating the forwarding time for mail sent to the address had expired.

Additional Relevant Facts

Petitioner filed a petition requesting revival of the instant application under 37 CFR 1.137(a), or in the alternative under 37 CFR 1.137(b), on May 25, 2011, in Application Nos. 11/625,577, 11/625,618, and 11/625,635.

Each petition states, with emphasis removed,

Please consider that the patent application became unavoidably abandoned while during a federal malpractice trial, the attorney of record, who happened to be the defendant in this case, continued to receive all correspondence for this particular application. The case known as (Davis v. Brouse McDowell), has only recently been adjudicated leaving the patentee to tend to the remaining correspondence matters.

Please consider also that upon discovery of the oversight, I (the patentee) was unable to tend to the matter myself due to a total and severe loss of eyesight that left me legally blind....

I am currently in the process of obtaining full recovery of my eyesight, and am an Intellectual Property Paralegal by trade.

The Petition Under 37 CFR 1.137(a)

A grantable petition under 37 CFR 1.137(a) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed,
- (2) The petition fee,
- (3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and
- (4) A terminal disclaimer and fee *if* the application was filed on or before June 8, 1995, or *if* the application is a design application.

The instant petition fails to satisfy requirements (1) and (3) set forth above.

The Petition does not include the Required Reply.

The petition does not include a reply to the non-final Office action mailed July 29, 2009, and the record does not indicate such a reply has been filed. Therefore, the petition cannot be granted.

The Petition does not include the Required Showing of Unavoidable Delay.

“[T]he question of whether an applicant’s delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account.”¹ In order for a party to prove unavoidable delay, the Office requires the party demonstrate the party exercised the “care or diligence tha[t] is generally used and observed by prudent and careful men in relation to their most important business.”² A lack of knowledge of, or failure to understand, a PTO rule, the content of the MPEP, or an Official Gazette notice will not constitute unavoidable delay.³

¹ *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

² *In re Mattulath*, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912). See also *Ray v. Lehman*, 55 F.3d 606, 34 U.S.P.Q.2d (BNA) 1786 (Fed. Cir. 1995) (citations omitted) (“[I]n determining whether a delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person.”)

³ See *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing *Potter v. Dann*, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel’s nonawareness of PTO rules does not constitute “unavoidable” delay); *Vincent v. Mossinghoff*, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel’s actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

35 USC 133 requires an applicant to make a showing of unavoidable delay. Therefore, an applicant bears the burden of proof.

A grantable petition under 37 CFR 1.137(a) must show the entire period of delay from the date of abandonment until the filing of the reply was unavoidable. A petition cannot show the entire delay in the submission of a reply *was* unavoidable if a reply has not been filed. As previously noted, a reply has not been in this case and the Office is unable to determine when a reply will be filed. Therefore, the current record is insufficient to demonstrate the entire delay in the submission of a reply was unavoidable.

Even if the petition included a reply, the showing of unavoidable delay would be insufficient.

Petitioner asserts the Office has been sending correspondence to the attorney of record during a federal malpractice trial and *implies* Petitioner did not receive the correspondence as a result. However, a copy of the June 29, 2007 decision granting a request to withdraw as attorney or agent of record was mailed to an address for Petitioner. In addition the July 29, 2009 non-final Office action and the May 14, 2010 Notice of Abandonment were mailed to an address for Petitioner. If Petitioner did not receive the Office action or Notice of Abandonment, the non-receipt of the documents is likely the result of a failure by Petitioner to keep the Office informed of a current mailing address. MPEP 711.03(c)(III)(C)(2) states,

[W]here an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of 'unavoidable' delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address.

The petition does not include a showing that due care was taken to adhere to the requirement to promptly inform the Office of the change of address.

The petition states the resolution of the lawsuit has left Petitioner free to tend to correspondence matters. In other words, Petitioner implies the pendency of the lawsuit prevented her from tending to such matters. However, the petition does not establish the lawsuit limited Petitioner's ability to tend to matters involving the instant application and the petition does not establish any delay resulting from a choice by Petitioner to delay taking an action until resolution of the lawsuit was unavoidable.

Petitioner's comments concerning problems with her eyesight are brief and do not fully address how the problems impacted Petitioner's ability to file a request for a change of correspondence address, review communications from the Office, and respond to communications from the Office. Although two statements from medical providers have been provided, the statements do not discuss the extent to which Petitioner's problems with her eyesight affected her ability to read and respond to written documents. The Office recognizes the November 30, 2009 statement states Petitioner "recently gave up driving" due to her problems with her eyesight. However, an

inability to drive is not necessarily the equivalent of an inability to read and respond to written documents.

Conclusion

The petition under 37 CFR 1.137(a) does not include a reply to the July 29, 2009 Office action and does not include the required showing of unavoidable delay. Therefore, the petition under 37 CFR 1.137(a) is dismissed.

The Petition under 37 CFR 1.137(b)

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed,
- (2) The petition fee,
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
- (4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995, or if the application is a design application.

The petition fails to satisfy requirement (1) set forth above.

As previously stated, a reply to the July 29, 2009 Office action has not been filed. Therefore, the petition under 37 CFR 1.137(b) must be dismissed.

Any request for reconsideration under 37 CFR 1.137(b) should include the required reply. The Office notes the request for reconsideration will not need to include any additional fees.

A grantable petition under 37 CFR 1.137(b) must be accompanied by a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the instant petition includes such a statement, the statement should also appear in any request for reconsideration. In other words, any request for reconsideration should include the following statement, or a similar statement: "The entire delay in filing the required reply from the due date for the reply until the filing the instant petition pursuant to 37 CFR 1.137(b) was unintentional."

Further correspondence with respect to this matter may be submitted as follows:

By Internet: A request for reconsideration may be filed electronically using EFS Web.⁴
Document Code "PET.OP" should be used if the request is filed electronically.

By facsimile: (571) 273-8300
Attn: Office of Petitions

⁴ General Information concerning EFS Web can be found at <http://www.uspto.gov/patents/process/file/efs/index.jsp>.

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
 Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosures: Copy of non-final Office action and other papers mailed July 29, 2009



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Law Office of Michael D. Eisenberg
Intellectual Property Law
3258 Caminito Eastbluff
Suite 89
San Diego, CA 92037

MAILED
DEC 09 2011
OFFICE OF PETITIONS

In re Application of Davis	:	
Application No. 11/625,577	:	Decision on Petition
Filing Date: January 22, 2007	:	
Attorney Docket No. DAVIS-P003	:	

This is a decision on the renewed petition under 37 CFR 1.137(b) filed September 21, 2011.

The petition is **granted**.

The Office mailed a non-final Office action on July 29, 2009. The Office action set a shortened statutory period for reply of three months. The Office did not receive a reply or a request for an extension of time. As a result, the application became abandoned on October 30, 2009. The Office mailed a Notice of Abandonment on May 14, 2010.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

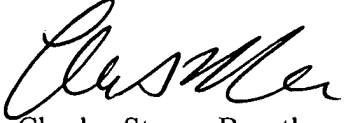
- (1) The reply required to the outstanding Office action or notice, unless previously filed,
- (2) The petition fee, and
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.¹

Applicant has satisfied the requirements set forth above. Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 3685 will be informed of the instant decision and the application will be further examined in due course.

¹ A terminal disclaimer is also necessary if the application is a design application or if the application was filed on or before June 8, 1995.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

A handwritten signature in black ink, appearing to read 'C. Brantley', written in a cursive style.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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IP Management Systems, LLC
P.O. Box 74
Newton Falls, OH 44444

MAILED

JUN 15 2011

OFFICE OF PETITIONS

In re Application of Davis :
Application No. 11/625,618 :
Filing Date: January 22, 2007 :
For: Method for Facilitating the Sale, :
Transfer, and/or Assignment of :
Intellectual Property :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(a) filed May 25, 2011, which is filed in the alternative under 37 CFR 1.137(b). This is also a decision on petition under 37 CFR 1.182 requesting expedited consideration of the petition to revive.

The petition under 37 CFR 1.137(a) is **dismissed**.

The petition under 37 CFR 1.137(b) is **dismissed**.

The petition under 37 CFR 1.182 is **granted**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time are permitted under 37 CFR 1.136(a). The reconsideration request should include a cover letter titled "Renewed Petition under 37 CFR 1.137(b)."

Facts Pertaining to the Instant Application

A declaration was filed February 27, 2007. The inventor's signature on the declaration is dated February 21, 2007. The declaration gives a power of attorney to Daniel A. Thomson and identifies the inventor's mailing address as: 736 Kenmore Avenue SE, Warren, OH 44484 ("Kenmore Address").

Thomson filed a request to withdraw as attorney or agent of record on March 21, 2007. The request stated, "I have delivered to the client all files for which I was responsible and information she has given me." The request indicated the Office should send future correspondence to the inventor at the Kenmore Address.

A decision granting the March 21, 2007 request was mailed June 29, 2007. A copy of the decision was mailed to the inventor at the Kenmore Address. The decision stated all future correspondence would be sent to the inventor at the Kenmore Address.

The Office mailed a Notification of Publication of Application to the Kenmore Address on August 28, 2008. The notification was returned undelivered on September 17, 2008. The returned envelope included a notation added by the United States Postal Service ("USPS") indicating the forwarding time for mail sent to the address had expired.

The Office mailed a non-final Office action to the Kenmore Address on October 16, 2008. The Office action set a shortened statutory period for reply of three months. The Office did not receive a reply or a request for an extension of time. As a result, the application became abandoned on January 17, 2009. The Office action was returned undelivered on October 22, 2008. The returned envelope included a notation added by the USPS indicating the forwarding time for mail sent to the address had expired.

Facts Pertaining to Application No. 11/625,577

A declaration was filed February 27, 2007. The inventor's signature on the declaration is dated February 21, 2007. The declaration gives a power of attorney to Daniel A. Thomson and identifies the inventor's mailing address as: 736 Kenmore Avenue SE, Warren, OH 44484 ("Kenmore Address").

Thomson filed a request to withdraw as attorney or agent of record on March 21, 2007. The request stated, "I have delivered to the client all files for which I was responsible and information she has given me." The request indicated the Office should send future correspondence to the inventor at the Kenmore Address.

A decision granting the March 21, 2007 request was mailed June 29, 2007. A copy of the decision was mailed to the inventor at the Kenmore Address. The decision stated all future correspondence would be sent to the inventor at the Kenmore Address.

The Office mailed a non-final Office action to the Kenmore Address on July 29, 2009. The Office action set a shortened statutory period for reply of three months. The Office did not receive a reply or a request for an extension of time. As a result, the application became abandoned on October 30, 2009. The Office mailed a Notice of Abandonment on May 14, 2010.

Facts Pertaining to Application No. 11/625,635

A declaration was filed February 27, 2007. The inventor's signature on the declaration is dated February 21, 2007. The declaration gives a power of attorney to Daniel A. Thomson and identifies the inventor's mailing address as: 736 Kenmore Avenue SE, Warren, OH 44484 ("Kenmore Address"). The declaration stated correspondence should be sent to the address associated with Customer No. 26781 ("Thomson Address").

Thomson filed a request to withdraw as attorney or agent of record on March 21, 2007. The request stated, "I have delivered to the client all files for which I was responsible and information she has given me." The request indicated the Office should send future correspondence to the inventor at the Kenmore Address.

The Office mailed a Notification of Publication of Application to the Thomson Address on August 9, 2007.

The Office mailed a non-final Office action to the Thomson address on September 12, 2007. The Office action set a shortened statutory period for reply of three months. The Office did not receive a reply or a request for an extension of time. As a result, the application became abandoned on December 13, 2007.

The Office issued a Notice of Abandonment on May 2, 2008. The Office sent an e-mail to Thomson's law firm notifying the firm of the issuance of the Notice of Abandonment on May 2, 2008.

A second request for withdrawal as attorney or agent was filed July 17, 2008. The request is signed by John M. Skeriotis, who does not appear to have ever been given a power of attorney or agent.

As a result of the July 17, 2008 request, the Office changed the correspondence address of record to the Kenmore address and sent a letter to the Kenmore address on July 23, 2008 indicating future correspondence involving the application would be mailed to the Kenmore address. The letter was returned undelivered on August 4, 2008. The returned envelope included a notation added by the USPS indicating the forwarding time for mail sent to the address had expired.

Additional Relevant Facts

Petitioner filed a petition requesting revival of the instant application under 37 CFR 1.137(a), or in the alternative under 37 CFR 1.137(b), on May 25, 2011, in Application Nos. 11/625,577, 11/625,618, and 11/625,635.

Each petition states, with emphasis removed,

Please consider that the patent application became unavoidably abandoned while during a federal malpractice trial, the attorney of record, who happened to be the defendant in this case, continued to receive all correspondence for this particular application. The case known as (Davis v. Brouse McDowell), has only recently been adjudicated leaving the patentee to tend to the remaining correspondence matters.

Please consider also that upon discovery of the oversight, I (the patentee) was unable to tend to the matter myself due to a total and severe loss of eyesight that left me legally blind....

I am currently in the process of obtaining full recovery of my eyesight, and am an Intellectual Property Paralegal by trade.

The Petition Under 37 CFR 1.137(a)

A grantable petition under 37 CFR 1.137(a) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed,
- (2) The petition fee,
- (3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and
- (4) A terminal disclaimer and fee *if* the application was filed on or before June 8, 1995, or *if* the application is a design application.

The instant petition fails to satisfy requirements (1) and (3) set forth above.

The Petition does not include the Required Reply.

The petition does not include a reply to the non-final Office action mailed October 16, 2008, and the record does not indicate such a reply has been filed. Therefore, the petition cannot be granted.

The Petition does not include the Required Showing of Unavoidable Delay.

“[T]he question of whether an applicant’s delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account.”¹ In order for a party to prove unavoidable delay, the Office requires the party demonstrate the party exercised the “care or diligence tha[t] is generally used and observed by prudent and careful men in relation to their most important business.”² A lack of knowledge of, or failure to understand, a PTO rule, the content of the MPEP, or an Official Gazette notice will not constitute unavoidable delay.³

¹ *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

² *In re Mattulath*, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912). See also *Ray v. Lehman*, 55 F.3d 606, 34 U.S.P.Q.2d (BNA) 1786 (Fed. Cir. 1995) (citations omitted) (“[I]n determining whether a delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person.”)

³ See *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing *Potter v. Dann*, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel’s nonawareness of PTO rules does not constitute “unavoidable” delay); *Vincent v. Mossinghoff*, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel’s actions, or their own, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

35 USC 133 requires an applicant to make a showing of unavoidable delay. Therefore, an applicant bears the burden of proof.

A grantable petition under 37 CFR 1.137(a) must show the entire period of delay from the date of abandonment until the filing of the reply was unavoidable. A petition cannot show the entire delay in the submission of a reply *was* unavoidable if a reply has not been filed. As previously noted, a reply has not been in this case and the Office is unable to determine when a reply will be filed. Therefore, the current record is insufficient to demonstrate the entire delay in the submission of a reply was unavoidable.

Even if the petition included a reply, the showing of unavoidable delay would be insufficient.

Petitioner asserts the Office has been sending correspondence to the attorney of record during a federal malpractice trial and *implies* Petitioner did not receive the correspondence as a result. However, the October 16, 2008 Office action was mailed to an address for Petitioner. If Petitioner did not receive the Office action, the non-receipt of the Office action is likely the result of a failure by Petitioner to keep the Office informed of a current mailing address. MPEP 711.03(c)(III)(C)(2) states,

[W]here an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of ‘unavoidable’ delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address.

The petition does not include a showing that due care was taken to adhere to the requirement to promptly inform the Office of the change of address.

The petition states the resolution of the lawsuit has left Petitioner free to tend to correspondence matters. In other words, Petitioner implies the pendency of the lawsuit prevented her from tending to such matters. However, the petition does not establish the lawsuit limited Petitioner’s ability to tend to matters involving the instant application and the petition does not establish any delay resulting from a choice by Petitioner to delay taking an action until resolution of the lawsuit was unavoidable.

Petitioner’s comments concerning problems with her eyesight are brief and do not fully address how the problems impacted Petitioner’s ability to file a request for a change of correspondence address, review communications from the Office, and respond to communications from the Office. Although two statements from medical providers have been provided, the statements do not discuss the extent to which Petitioner’s problems with her eyesight affected her ability to read and respond to written documents. The Office recognizes the November 30, 2009 statement states Petitioner “recently gave up driving” due to her problems with her eyesight. However, an inability to drive is not necessarily the equivalent of an inability to read and respond to written documents.

Conclusion

The petition under 37 CFR 1.137(a) does not include a reply to the October 16, 2008 Office action and does not include the required showing of unavoidable delay. Therefore, the petition under 37 CFR 1.137(a) is dismissed.

The Petition under 37 CFR 1.137(b)

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed,
- (2) The petition fee,
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
- (4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995, or if the application is a design application.

The petition fails to satisfy requirement (1) set forth above.

As previously stated, a reply to the October 16, 2008 Office action has not been filed. Therefore, the petition under 37 CFR 1.137(b) must be dismissed.

Any request for reconsideration under 37 CFR 1.137(b) should include the required reply. The Office notes the request for reconsideration will not need to include any additional fees.

A grantable petition under 37 CFR 1.137(b) must be accompanied by a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the instant petition includes such a statement, the statement should also appear in any request for reconsideration. In other words, any request for reconsideration should include the following statement, or a similar statement: "The entire delay in filing the required reply from the due date for the reply until the filing the instant petition pursuant to 37 CFR 1.137(b) was unintentional."

Further correspondence with respect to this matter may be submitted as follows:

By Internet: A request for reconsideration may be filed electronically using EFS Web.⁴ Document Code "PET.OP" should be used if the request is filed electronically.

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

⁴ General Information concerning EFS Web can be found at <http://www.uspto.gov/patents/process/file/efs/index.jsp>.

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney
Steven Brantley at (571) 272-3203.



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosures: Copy of non-final Office action and other papers mailed October 16, 2008



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Law Office of Michael D. Eisenberg
Intellectual Property Law
3258 Caminito Eastbluff
Suite 89
San Diego, CA 92037

MAILED
AUG 29 2011
OFFICE OF PETITIONS

In re Application of Davis	:	
Application No. 11/625,618	:	Decision on Petition
Filing Date: January 22, 2007	:	
Attorney Docket No. DAVIS-P001	:	

This is a decision on the renewed petition under 37 CFR 1.137(b) filed August 23, 2011.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time are permitted under 37 CFR 1.136(a). The reconsideration request should include a cover letter titled "Renewed Petition under 37 CFR 1.137(b)."

The Office mailed a non-final Office action on October 16, 2008. The Office action set a shortened statutory period for reply of three months. The Office did not receive a reply or a request for an extension of time. As a result, the application became abandoned on January 17, 2008. A Notice of Abandonment was mailed June 8, 2009.

The instant petition seeks revival of the application.

On June 15, 2011, the Office mailed a decision on petition stating,

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed,
- (2) The petition fee,
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
- (4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995, or if the application is a design application.

The petition fails to satisfy requirement (1) set forth above.

As previously stated, a reply to the October 16, 2008 Office action has not been filed. Therefore, the petition under 37 CFR 1.137(b) must be dismissed.

Any request for reconsideration under 37 CFR 1.137(b) should include the required reply. The Office notes the request for reconsideration will not need to include any additional fees.

A grantable petition under 37 CFR 1.137(b) must be accompanied by a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the instant petition includes such a statement, the statement should also appear in any request for reconsideration. In other words, any request for reconsideration should include the following statement, or a similar statement: "The entire delay in filing the required reply from the due date for the reply until the filing the instant petition pursuant to 37 CFR 1.137(b) was unintentional."

The instant renewed petition was filed August 23, 2011. The instant petition is combined with a reply, in the form of an amendment, to the October 16, 2008 Office action.

Pursuant to 37 CFR 1.4(c), a petition and an amendment may not be part of a single document. 37 CFR 1.4(c) states,

Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects.

Since the petition and the amendment are part of a single document, the instant petition cannot be granted.

Any request for reconsideration should include a renewed petition and a separate amendment.

A grantable petition under 37 CFR 1.137(b) must be accompanied by a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the instant petition includes such a statement, the statement should also appear in any request for reconsideration. In other words, any request for reconsideration should include the following statement, or a similar statement: "The entire delay in filing the required reply from the due date for the reply until the filing the instant petition pursuant to 37 CFR 1.137(b) was unintentional."

Further correspondence with respect to this matter may be submitted as follows:

By facsimile: (571) 273-8300
Attn: Office of Petitions

By Internet: A request for reconsideration may be filed electronically using EFS Web.¹
Document Code "PET.OP" should be used if the request is filed electronically.

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney
Steven Brantley at (571) 272-3203.



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

¹ General Information concerning EFS Web can be found at <http://www.uspto.gov/patents/process/file/efs/index.jsp>.



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Intellectual Property Law
3258 Caminito Eastbluff
Suite 89
San Diego, CA 92037

MAILED
SEP 26 2011
OFFICE OF PETITIONS

In re Application of Davis	:	
Application No. 11/625,618	:	Decision on Petition
Filing Date: January 22, 2007	:	
Attorney Docket No. DAVIS-P001	:	

This is a decision on the renewed petition under 37 CFR 1.137(b) filed September 7, 2011.

The petition is **granted**.

The Office mailed a non-final Office action on October 16, 2008. The Office action set a shortened statutory period for reply of three months. The Office did not receive a reply or a request for an extension of time. As a result, the application became abandoned on January 17, 2008. A Notice of Abandonment was mailed June 8, 2009.

A petition under 37 CFR 1.137(b) was filed on May 25, 2011.

A decision dismissing the May 25, 2011 petition was filed June 15, 2011. The decision stated the petition could not be granted because the petition did not include a reply to the outstanding Office action.

A renewed petition was filed August 23, 2011.

A decision dismissing the August 23, 2011 petition was mailed August 29, 2011. The decision stated,

Pursuant to 37 CFR 1.4(c), a petition and an amendment may not be part of a single document. 37 CFR 1.4(c) states,

Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects.

Since the petition and the amendment are part of a single document, the instant petition cannot be granted.

Any request for reconsideration should include a renewed petition and a separate amendment.

The instant petition is accompanied by a separate amendment.

In view of the prior discussion, the petition is granted and the application is hereby revived.

Technology Center Art Unit 3689 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LAW OFFICES OF LARRY K ROBERTS INC
2603 MAIN STREET
9TH FLOOR
IRVINE CA 92614-6232

MAILED

SEP 06 2011

OFFICE OF PETITIONS

In re Application of :
Buchman, et al. :
Application No. 11/625,625 : ON PETITION
Filed: January 22, 2007 :
Attorney Docket No. 1834.1 :

This is a decision on the petition to revive under
37 CFR 1.137(b), filed August 24, 2011.

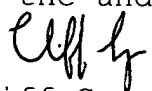
The petition under 37 CFR 1.137(b) is **GRANTED**.

The above application became abandoned for failure to timely file
a reply in response to the non-final Office action, mailed
February 16, 2011. This Office action set a shortened statutory
period for reply of three months. No reply having been received,
the application became abandoned on May 17, 2011.

With the instant petition, applicants made the proper statement
of unintentional delay, paid the petition fee, and filed an
Amendment.

The application is being forwarded to Group Art Unit 3689 for
consideration of the Amendment, filed August 24, 2011.

Telephone inquiries related to this decision should be directed
to the undersigned at (571)272-3207.


Cliff Congo
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Brouse McDowell LPA
388 South Main Street
Suite 500
Akron, OH 44311

MAILED
JUN 20 2011
OFFICE OF PETITIONS

In re Application of
Heather Alisha Davis
Application No. 11/625,635
Filed: January 22, 2007
Attorney Docket No. 23068.44744

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 17, 2008.

The request is **moot because a revocation of power of attorney has been filed.**

A review of the file record indicates that the power of attorney to Brouse McDowell LPA, has been revoked by the applicant of the patent application on May 25, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: IP Management Systems, LLC
P.O. Box 74
Newton Falls, OH 44444



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

IP Management Systems, LLC
P.O. Box 74
Newton Falls OH 44444

MAILED

JUN 22 2011

OFFICE OF PETITIONS

In re Application of :
Heather Alisha Davis :
Application No. 11/625,635 : **DECISION ON PETITION**
Filed: January 22, 2007 :
Attorney Docket No. 23068.44744 :

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed May 25, 2011, which is being treated as an alternative a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 12, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 13, 2007. A Notice of Abandonment was mailed on May 2, 2008.

No reply to the Office action mailed September 12, 2007 was received, therefore the case was properly abandoned.

The petition under 37 CFR 1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR

As to item (1), petitioner has not provided the required reply to the Office action of September 12, 2007.

As to item (3), petitioner indicates that at the time the response was due, the attorney of record was involved with a federal malpractice suit. It is not clear from the petition whether petitioner was aware of this suit at the time a response was due and if so, why she did not find another patent attorney to handle the prosecution of the above identified application. Petitioner also indicates she was not able to attend to her patent application due to medical issues in regard to the loss of her eyesight. However, the evidence provided by petitioner shows that medical consultation on this matter was done in 2009 whereas the application went abandoned early 2008. Therefore it is not clear how petitioner's medical issues impacted her inability to deal with the prosecution of her patent application at the time a response to the Office action was due.

The showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 35 U.S.C. § 151 and 37 CFR 1.137(a). See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

As to the petition under 37 CFR 1.137(b):

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (1).

As to item (1), a reply to the non-final office action mailed on September 12, 2007 has not been submitted. Please see the attachment to this decision.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions

Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions



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Law Office of Michael D. Eisenberg
Intellectual Property Law
3258 Caminito Eastbluff
Suite 89
San Diego CA 92037

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AUG 30 2011

OFFICE OF PETITIONS

In re Application of :
Heather Alisha Davis :
Application No. 11/625,635 :
Filed: January 22, 2007 :
Attorney Docket No. 23068.44744 :

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 23, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to properly reply in a timely manner to the non-final Office action mailed September 12, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 13, 2007. A Notice of Abandonment was mailed on May 2, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of \$810, and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3621 for appropriate action by the Examiner in the normal course of business on the reply received August 23, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/625,635	01/22/2007	HEATHER ALISHA DAVIS	23068.44744

CONFIRMATION NO. 8810

POA ACCEPTANCE LETTER



45812

Law Office of Michael D. Eisenberg
Intellectual Property Law
3258 Caminito Eastbluff
Suite 89
San Diego, CA 92037

Date Mailed: 08/29/2011

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/23/2011.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101



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P.O. Box 1450
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MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO IL 60606-6357

MAILED
APR 29 2011
OFFICE OF PETITIONS

In re Patent No. 7,927,288	:	
Issued: April 19, 2011	:	
Application No. 11/625,801	:	ON PETITION
Filed: January 22, 2007	:	
Attorney Docket No. 30275/3286A	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed March 15, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions



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www.uspto.gov

King & Spalding LLP
P.O. Box 889
Belmont CA 94002-0889

MAILED

DEC 14 2010

OFFICE OF PETITIONS

In re Application of :
Liang, et al. :
Application No. 11/625,813 : ON APPLICATION FOR
Filed: January 22, 2007 : PATENT TERM ADJUSTMENT
Docket No. 55640-8028.US00 :

This is in response to the STATEMENT OF FACTS UNDER 37 C.F.R. § 1.705(b)(2) IN SUPPORT OF REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT, filed October 8, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is at least six hundred fifty-seven (657) days, not five hundred twelve (512) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE.**

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected

issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee¹.

The petition was not accompanied by the required fee under 37 CFR 1.18(e). Therefore, deposit account no. 50-4616 will be charged the \$200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

¹ For example, if an applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the 37 CFR 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

A handwritten signature in black ink, reading "Shirene Willis Brantley". The signature is written in a cursive, flowing style.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/26/10

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 11625874 Patent No.: 7601844

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580**

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not apply.**

☐ **Denied**

State the reasons for denial below.

Comments: _____

**/Janet L. Andres/
SPE**

**1625
Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/16/10

TO SPE OF : ART UNIT 1624 Wilson James (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/625889 Patent No.: 7615556

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D40-A
Palm Location 7580

H. Rlep
 Certificates of Correction Branch
 703-756-1571 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☐ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes do not apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE

1624
Art Unit

6976522



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

In re Application of

Alford, et al.

Application No. 11/626,030

Filed: January 23, 2007

Attorney Docket No. **PRD2603USNP**

MAILED

NOV 23 2010

OFFICE OF PETITIONS

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed September 7, 2010, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to respond to the Notice of Allowance and Issue Fee Due (the "Notice") mailed June 3, 2010. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on September 4, 2010.

The Request for Continued Examination and fee were received on September 7, 2010.

The application is being directed to the Technology Center 1600, GAU 1626 for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

**CERTIFICATION AND REQUEST
FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN** (Page 1 of 2)

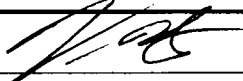
Nonprovisional Application Number or Control Number (if applicable): 11/626,032	Patent Number (if applicable):
First Named Inventor: Takatoshi MURASE	Title of Invention: METHOD OF ENHANCING MOTOR FUNCTION

APPLICANT/PATENTEE/REEXAMINATION PARTY HEREBY CERTIFIES AND REQUESTS THE FOLLOWING FOR THE ABOVE-IDENTIFIED APPLICATION/PATENT/REEXAMINATION PROCEEDING.

1. FOR PATENT APPLICATIONS AND REEXAMINATION PROCEEDINGS PENDING IN THE USPTO AS OF MARCH 11, 2011, IN WHICH A COMMUNICATION FROM THE USPTO IS SOUGHT TO BE REMAILED:
 - a. One or more inventors, an assignee, or a correspondence address (for the application/proceeding) is in an area of Japan affected by the earthquake and/or tsunami of March 11, 2011.
 - b. A reply or response to an Office action (final, non-final, or other), a notice of allowance, or other Office notice (hereinafter collectively referred to as "Office communication") is outstanding on March 11, 2011.
 - c. The statutory or non-statutory time period set for response has not yet expired.
 - d. Withdrawal and reissuance of the Office communication is requested.
 - e. It is acknowledged that if this request is not made within sufficient time so that withdrawal and reissuance of the Office communication occur prior to expiration of the statutory or non-statutory time period (as permitted to be extended under 37 CFR 1.136(a), or as extended under 37 CFR 1.550(c) or 1.956), this request may not be granted.
 - f. The need for the reissuance of the Office communication was due to the effects of the earthquake and/or tsunami of March 11, 2011.
 - g. This request is being sent via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
2. FOR PATENTEES WHO WERE UNABLE TO TIMELY PAY A PATENT MAINTENANCE FEE DURING THE SIX-MONTH GRACE PERIOD FOLLOWING THE WINDOW TO PAY THE MAINTENANCE FEE:
 - a. The original window of time to pay the maintenance fee without the surcharge required by 37 CFR 1.20(h) expired on or after March 11, 2011.
 - b. The delay in paying the fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
 - c. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(h) for paying a maintenance fee during the six-month grace period following the window to pay the maintenance fee.
 - d. This request and payment of the maintenance fee during the six-month grace period following the window to pay the maintenance fee is being mailed to: Director of the United States Patent and Trademark Office, Attn: Maintenance Fee, 2051 Jamieson Avenue, Suite 300, Alexandria, VA 22314; or being transmitted via facsimile to: 571-273-6500.

**CERTIFICATION AND REQUEST
FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN** (Page 2 of 2)

3. FOR PATENTEES WHO NEED TO FILE A PETITION TO ACCEPT A DELAYED MAINTENANCE FEE PAYMENT UNDER 37 CFR 1.378(c):
- The maintenance fee payment was required to have been paid after March 10, 2011.
 - A petition under 37 CFR 1.378(c) (using USPTO form PTO/SB/66 – Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c))) is being promptly filed accompanied by the applicable maintenance fee payment (but not the surcharge under 37 CFR 1.20(i)).
 - The delay in payment of the maintenance fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
 - The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(i) for accepting a delayed maintenance fee payment.
 - It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed by March 11, 2012, in order to be entitled to a waiver of the surcharge under 37 CFR 1.20(i).
 - It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed within twenty-four months from the expiration date of the patent. See 35 U.S.C 41(c).
 - This request and the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) is being submitted via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
4. FOR NONPROVISIONAL PATENT APPLICATIONS FILED WITHOUT AN EXECUTED OATH OR DECLARATION OR PAYMENT OF THE BASIC FILING FEE, SEARCH FEE, AND/OR EXAMINATION FEE:
- The nonprovisional patent application was filed on or after March 11, 2011, and prior to April 12, 2011.
 - The late filing of the oath or declaration or the basic filing fee, search fee, or examination fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
 - The USPTO is requested to *sua sponte* waive the surcharge set forth in 37 CFR 1.16(f) for the late filing of the oath or declaration or basic filing fee, search fee, and/or examination fee.
 - This request, together with the executed oath or declaration or the basic filing fee, search fee, or examination fee, as well as the reply to the Notice to File Missing Parts, is being submitted via EFS-Web or by mail directed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature 	Date <u>7/25/11</u>
Name (Print/Typed) Vincent K. Shier, Ph.D.	Practitioner Registration Number 50,552
<p>Note: Signatures of all the inventors, § 1.41(b) applicants, or assignees of record of the entire interest or their representative(s), or reexamination requesters at the appeal stage are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.</p>	
<input type="checkbox"/> *Total of <u>1</u> forms are submitted.	



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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

APR 28 2011

OFFICE OF PETITIONS

In re Application of :
Murase et al. :
Application No. 11/626,032 : **DECISION ON PETITION**
Filed: January 23, 2007 :
Attorney Docket No. 302420US0CONT :

This is a decision on the request filed April 25, 2011, seeking relief under the provisions of an announcement by the Under Secretary and Director of the United States Patent and Trademark Office on March 17, 2011, http://www.uspto.gov/patents/announce/japan_relief_2011mar17.pdf, providing relief to inventors and patent owners in areas affected by the earthquake and resulting tsunami of March 11, 2011.

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on December 23, 2010. The instant petition was filed prior to the expiration of the period for reply and the certifications for granting of relief are considered to be met by the submission of the request.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This application is being referred to the Technology Center, Art Unit 3764 for re-mailing the Office action of December 23, 2010. The period for reply will run from the mailing date of the Office action.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 09/10/10

Paper No.: X

TO SPE OF : ART UNIT 2871

SUBJECT : Request for Certificate of Correction for Appl. No. 11/626115 -Pt.: 7738055

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Should the changes be made?

Magdalene Talley

Certificates of Correction Branch

571 272-0423

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____


SPE

2871
Art Unit



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
JUL 01 2011
OFFICE OF PETITIONS

In re Patent No. 7,913,699	:	
Strickland	:	DECISION FOR REQUEST
Issue Date: March 29, 2011	:	FOR RECONSIDERATION
Application No. 11/626,197	:	OF PATENT TERM
Filed: January 23, 2007	:	ADJUSTMENT
Attorney Docket No. 20210-023002	:	

This is a decision on the "Application for Patent Term Adjustment Under 37 CFR 1.705(d)," filed May 27, 2011. Patentees request that the patent term adjustment indicated on the face of the Letters of Patent be corrected from five hundred and thirty-seven (537) days, to six hundred and one (601) days.

The request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) is **DISMISSED**.

On March 29, 2011, the above-identified application matured into U.S. Patent No. 7,913,699, with a revised patent term of 537 days. By the instant petition, patentees assert that the patent term should be adjusted by 205 days pursuant to 37 CFR 1.702(b) and 37 CFR 1.703(b). Patentees state:

Section 154(b)(1)(B)(i) of Title 35 excludes from the calculation of B Delay "any time consumed by continued examination of the application." In the present matter, a Request for Continued Examination was filed on June 14, 2010. The Director erred in the calculation of the patent term adjustment by subtracting from B Delay a period of time that was not "consumed by continued examination of the application." The PTO mailed a Notice of Allowance on January 25, 2011, thereby closing examination of the application on that date. Thus, no continued examination took place during 64 day period from January 25, 2011 (the mailing date of the Notice of Allowance) until March 29, 2011 (the date the patent was issued). Accordingly, 64

In re Patent No. 7,913,699 Application No. 11/626,197 2
days of "B Delay" should have been included in addition to the
141 days accorded by the Director for a total B Delay of 205
days.

*Excerpt taken from "Application for Patent Term Adjustment Under
37 CFR 1.705(d)," filed April 15, 2011, Pgs. 2-3.*

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)¹. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper.

¹ Pursuant to 35 U.S.C. 132(b), 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F. Supp.2d 138(D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The

time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)². Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days.

"Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b) (the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

² Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under

35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures³ permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the

³ Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on June 14, 2010, and the patent issued by virtue of that request on March 29, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on June 14, 2010, and ending on March 29, 2011, is not included in calculating Office delay.

In view thereof, it is concluded that the patent term adjustment of 537 days indicated on the patent is correct.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



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COMMISSIONER FOR PATENTS
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JUN 14 2011

OFFICE OF PETITIONS

FISH & RICHARDSON P.C. (TC)
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,918,231	:
Issued: April 5, 2011	: DECISION ON PATENT TERM and
Application No. 11/626,211	: NOTICE OF INTENT TO ISSUE
Filed: January 23, 2007	: CERTIFICATE OF CORRECTION
Atty. Dkt. No.: 20210-023001	:

This is a decision on the application for patent term adjustment filed June 2, 2011 requesting that the patent term adjustment be increased from 540 days to 606 days.

The request for reconsideration of the patent term adjustment (PTA) pursuant to 37 CFR 1.705(d) is **GRANTED TO THE EXTENT INDICATED HEREIN.**

The above-identified application matured into U.S. Pat. No. 7,918,231 on April 5, 2011. The patent issued with a patent term adjustment of 540 days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d). Patentee contests the period of adjustment of 131 days accorded pursuant to 37 CFR 1.702(b) and assert that the correct period of adjustment under 37 CFR 1.702(b) is 202 days. Patentee further asserts that the period of applicant delay is 96 days rather than 91 days. Patentees assert that the patent term adjustment is subject to further reduction of five days in connection with the reply filed June 9, 2010.

The period of applicant delay totals 96 days, as argued. The patent term adjustment is subject to further reduction of five days in accordance with 37 CFR 1.704(c)(8). The reduction commenced June 5, 2010 and ended June 9, 2010.

With respect to patentee's argument that the period of adjustment pursuant to 37 CFR 1.702(b) totals 202 days, patentee's arguments have been carefully considered, but are not persuasive. The period of adjustment pursuant to 37 CFR 1.702(b) was properly calculated at 131 days.

35 USC 154(b)(1)(B) states in relevant part:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including — (i) any time consumed by continued examination of the application requested by the applicant under section 132(b).

37 CFR 1.702(b) states in relevant part:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including: (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b).

37 CFR 1.703(b) states in relevant part:

The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods: (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Herein, a request for continued examination was filed June 4, 2010. Thus, excluding the period of time consumed by continued examination, the period of adjustment pursuant to 37 CFR 1.703(b) is 131 days.

In view thereof, at the time of issuance, the patent was entitled to an overall patent term adjustment of 535 days (500 days pursuant to 37 CFR 1.702(a) + 131 days pursuant to 37 CFR 1.702(b) – 96 days pursuant to 37 CFR 1.704).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See 37 CFR 1.323(a)(4).

The required \$200.00 fee set forth in 37 CFR 1.18(e) has been charged to the authorized deposit account. No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 535 days.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Patent No. 7,918,231

3

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,918,231

DATED : April 5, 2011

DRAFT

INVENTOR(S) : Strickland, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 540 days

Delete the phrase "by 540 days" and insert -- by 535 days --



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OFFICE OF PETITIONS

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In re Patent No. 7,918,231
Issued: April 5, 2011
Application No. 11/626,211
Filed: January 23, 2007

:
: DECISION ON REQUEST FOR
: RECONSIDERATION OF
: PATENT TERM ADJUSTMENT

This is a decision on the request for reconsideration of decision mailed June 14, 2011 with respect to the application for patent term adjustment under 37 CFR 1.704(d) filed June 2, 2011. This request, filed July 14, 2011, is deemed timely filed within the meaning of 37 CFR 1.181(f).

RELEVANT BACKGROUND

Patentees request that a decision on this request for reconsideration of patent term adjustment be deferred or delayed until after a final decision has been rendered in Abbott Biotherapeutics Corp v. Kappos, 1:2010cv01853 (D.D.C. 2010).

The request is hereby DENIED. This decision is a final agency action within the meaning of 5 USC §704 for purposes of seeking judicial review. See, MPEP 1002.02.

The above-identified application matured into U.S. Patent No. 7,918,231 on April 5, 2011 with a revised patent term adjustment of 540 days. On June 14, 2011, a decision on patentees' application for patent term adjustment under 37 CFR 1.705(d), filed June 2, 2011, was mailed. The decision under 37 CFR 1.705(d) mailed June 14, 2011 granted a patent term adjustment of 535 days (500 days under 37 CFR 1.703(a) plus 131 days under 37 CFR 1.703(b) less 96 days of applicant delay under 37 CFR 1.704). A Certificate of Correction to this effect issued on August 9, 2011.

Patentees herein request that the patent term adjustment for the above-identified patent be increased from 535 days to 606 days (500 days pursuant to 37 CFR 1.703(a) plus 202 days pursuant to 37 CFR 1.703(b) less 96 days of applicant delay pursuant to 37 CFR 1.704(b)).

Patentees maintain that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentees contend that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, patentees argue that subsequent to the filing of the request for continued examination on June 4, 2010, examination of the application closed on January 25, 2011, the date upon which the Notice of Allowance was mailed. Thus, patentees argue that no continued examination took place

during the 71 day period from January 25, 2011 (the mailing date of the Notice of Allowance) until April 5, 2011 (the date the patent was issued). As such, patentees maintain that the “B delay” should include the 71 days and be increased from 131 to 202 days. Thus, patentees conclude that the correct patent term adjustment is thus 606 days (the sum of 500 days of “A delay” and 202 days of “B delay” minus 96 days of applicant delay”).

RELEVANT STATUTES

The statutory basis for calculation of “B delay” is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);
- (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or
- (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

- (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
- (2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
- (3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

- (4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
- (5) Any delay in the processing of the application by the Office that was requested by the applicant.

DECISION

Patentees' arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 131 days based on the application having been filed on January 23, 2007 and the patent not having issued as of January 24, 2010, the day after the date that is three years after the date that the application was filed under 35 U.S.C. 111(a), January and a request for continued examination under 35 USC 132(b) having been filed on June 4, 2010. In other words, the 71-day period beginning on the date of mailing of the notice of allowance to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)¹. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

¹ Pursuant to 35 U.S.C. 132(b), 37 CFR 1.114 provides for continued examination of an application, as follows:

- (a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:
 - (1) Payment of the issue fee, unless a petition under § 1.313 is granted;
 - (2) Abandonment of the application; or
 - (3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.
- (b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

Further, counting the period of time excluded from the “B delay” for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentees do not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentees’ argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not “any time consumed by continued examination requested by the applicant under section 132(b)” within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) (“only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the ‘plain meaning’ of the statutory language”). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) (“Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning”). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, “Subject to the limitations of paragraph (2),” means that the limitations of paragraph 2 apply to this paragraph’s adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) “B delay” cannot accrue for days of “A delay” that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued “B delay,” will be reduced for applicant delay.

Second, “if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States,” meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office’s failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for “B delay.”

Third, “not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include “any time consumed by” or “any delay in processing,” as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for “A delay” (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including “any time consumed by” means not including any days used to prosecute the application as specified in clauses (i)-(ii)². Clause (i) specifies “any time consumed by continued examination of the application requested by the applicant under section 132(b).” Clause (ii) specifies “any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court.” “Time” in the context of this legislation throughout refers to days. “Consumed by” means used by or used in the course of. Websters Collegiate Dictionary, (11th ed.). The “any” signifies that the days consumed by are “any” of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, “any time consumed by” refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4)

² Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for “B delay” does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, “the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued” meaning that the consequence of this failure is that after “the end of that 3-year period” an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The “time consumed by” or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the “American Inventors Protection Act of 1999,” as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 (“[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor”). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See, 35 U.S.C. 151 (“[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant”). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See, 35 U.S.C. 132 (“[w]henver, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application”). Neither the issuance of a notice of allowance nor the issuance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in BlackLight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See, BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See, In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See, 37 CFR 1.56(a) (“[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned”). 37

CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See, 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures³ permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See, 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include “any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b).” It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

³ Note, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

CONCLUSION

For the above-stated reasons, a review of the petition and file wrapper of the above-identified patent reveals that the above-identified patent is not entitled to a patent term extension or adjustment of 606 days. Therefore, the petition to change the patent term adjustment indicated on the above-identified patent to 606 days is **DENIED**.

This decision may be viewed as final agency action. See, MPEP 1002.02(b).

Telephone inquiries specific to this matter should be directed to Attorney Advisor Alesia M. Brown at (571) 272-3205.

A handwritten signature in black ink, appearing to read 'Anthony Knight', is written over the printed name.

Anthony Knight
Director
Office of Petitions



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27777

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MAILED

APR 13 2011

PCT LEGAL ADMINISTRATION

In re Application of :
VAN BRANDT *et al* :
Application No.: 11/626,215 :
Filing Date: January 23, 2007 :
Attorney Docket No.: 026038.0283PTUS :
For: SUBSTITUTED PROPENYL :
PIPERAZINE DERIVATIVES AS :
NOVEL INHIBITORS OF HISTONE :
DEACETYLASE :

DECISION

This decision is in response to applicants' request for a corrected filing receipt filed September 10, 2010 and applicants' petition under 37 CFR 1.182 filed March 18, 2011.

BACKGROUND

On January 23, 2007, applicants submitted papers with the Office using the USPTO EFS-Web system. Applicants listed the application type as "Utility." As such, the application was processed as a filing under 35 U.S.C. 111(a).

On March 7, 2007, a filing receipt was issued.

On September 10, 2010, a request for a corrected filing receipt and continued examination were filed.

On March 15, 2011, a change of correspondence address was filed.

On March 18, 2011, a petition under 37 CFR 1.182 was filed.

DISCUSSION

Request for Corrected Filing Receipt

Applicants request a corrected filing receipt be issued listing the above-captioned application as the national stage of PCT/EP2005/053611, filed July 25, 2005, which claims priority to European Application No. 0407717.9, filed July 28, 2004. Applicants state that the papers filed January 23, 2007 clearly indicate that the subject application was intended to be the national stage of PCT/EP2005/053611.

DECISION

For the reasons noted above, applicants' request for a corrected filing receipt under 37 CFR 1.181 and request to convert the application to a filing under 35 U.S.C. 371 pursuant to 37 CFR 1.182 are both **DISMISSED** without prejudice

If reconsideration on the merits of any part of this decision is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302



UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED

JUN 23 2011

PCT LEGAL ADMINISTRATION

In re Application of :
VAN BRANDT *et al* :
Application No.: 11/626,215 :
Filing Date: January 23, 2007 :
Attorney Docket No.: 026038.0283PTUS :
For: SUBSTITUTED PROPENYL :
PIPERAZINE DERIVATIVES AS :
NOVEL INHIBITORS OF HISTONE :
DEACETYLASE :

DECISION

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On March 18, 2011, a petition under 37 CFR 1.182 was filed.

On 13 April 2011, pages 1 and 3 of the three-page decision was mailed. Applicants were given two months to respond with extensions available.

¹ This decision was originally mailed 13 April 2011; however, page 2 of the three-page decision was missing. A review of the decision in PAIR shows that the complete decision was not mailed due to a clerical error. Accordingly, a new decision is warranted. Applicants should use the date of mailing of the subject decision when computing any periods to respond.

On 21 June 2011, counsel contacted the undersigned by telephone regarding the partial decision.

DISCUSSION

Request for Corrected Filing Receipt

Applicants request that a corrected filing receipt be issued listing the above-captioned application as the national stage of PCT/EP2005/053611, filed July 25, 2005, which claims priority to European Application No. 0407717.9, filed July 28, 2004. Applicants state that the papers filed January 23, 2007 clearly indicate that the subject application was intended to be the national stage of PCT/EP2005/053611.

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all the conditions set forth in 35 U.S.C. 371(c). The official PTO Notice published in the Official Gazette at 1077 OG 13 (April 14, 1987) entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371, (the National Stage of PCT)" states, in part, that: "[i]f there are any conflicting instructions as to which section of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111." See also MPEP § 1893.03(a).

A review of the above-captioned application reveals that the above-captioned application was properly treated by the Office as a filing under 35 U.S.C. 111(a). Applicants listed the application type as a utility upon initial filing using the USPTO EFS-Web system. This action is considered to be a conflicting instruction.²

Accordingly, applicants' request for a corrected filing receipt is dismissed. The papers deposited on January 23, 2007 constituted a filing under 35 U.S.C. 111(a).

Petition Under 37 CFR 1.182

In the papers filed March 18, 2011, applicants request that the Office acknowledge that the application is a national stage filing of PCT/EP2005/053611. As discussed above, the above-captioned application was properly treated as a filing under 35 U.S.C. 111(a). As such, no further discussion of that point will be addressed here.

Instead, applicants' petition under 37 CFR 1.182 will be treated as a request to convert the subject application to a filing under 35 U.S.C. 371. The \$400.00 petition fee

² The USPTO EFS-WEB screen changed on Dec 16, 2006. Prior to the date the radio button for utility only said "Utility." On and after Dec 16, 2006 the radio button states "Utility (Utility under 35 USC 111(a))." The button prior to Dec 16, 2006 is not considered to be a conflicting instruction if all the other papers indicated a filing under 371. If the applicant chose "Utility (Utility under 35 USC 111(a))," on an application filed after December 16, 2006, the radio button is a conflicting instruction. Here, the application was filed on January 23, 2007, and, as such, is considered to be a conflicting instruction.

has been paid.

U.S. Statutes and Regulations do not make specific provision for the requested action and as such the Office does not grant such petitions for conversion as a mere matter of course. The Office will only grant such petitions upon a showing by applicant of sufficient cause (e.g., the loss of patent rights) where no other remedy is available.

In the present petition, applicants have not made a showing that any loss of patent rights would occur if the above-captioned application remains a filing under 35 U.S.C. 111(a).

Accordingly, the petition is dismissed for lack of showing of sufficient cause.

DECISION

For the reasons noted above, applicants' request for a corrected filing receipt under 37 CFR 1.181 and request to convert the application to a filing under 35 U.S.C. 371 pursuant to 37 CFR 1.182 are both DISMISSED without prejudice

If reconsideration on the merits of any part of this decision is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

27777

Philip S. Johnson
JOHNSON & JOHNSON
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

MAILED

OCT 17 2011

PCT LEGAL ADMINISTRATION

In re Application of :
VAN BRANDT *et al* :
Patent No.: 7,947,830 :
Application No.: 11/626,215 :
Filing Date: January 23, 2007 :
Attorney Docket No.: 026038.0283PTUS :
For: SUBSTITUTED PROPENYL :
PIPERAZINE DERIVATIVES AS :
NOVEL INHIBITORS OF HISTONE :
DEACETYLASE :

DECISION

This decision is in response to applicants' renewed petition under 37 CFR 1.182 filed August 23, 2011.

BACKGROUND

On June 23, 2011, a decision dismissing applicants' request for a corrected filing receipt and request to convert the application to a filing under 35 U.S.C. § 371 was mailed. Applicants were given two months to respond.

On August 23, 2011, applicants filed a renewed request under 37 CFR 1.182 along with a \$400.00 petition fee.

DISCUSSION

The prior decision mailed June 23, 2011 noted that applicants have not shown that any loss of patent rights would occur if the above-captioned application remained a filing under 35 U.S.C. § 111(a).

In the renewed petition, applicants claim that they would lose their priority to PCT/EP2005/053611 filed July 25, 2005, which claims priority from EPO Patent Application No. 04077171.9, filed July 28, 2004 causing them irreparable harm. Applicants state that the instant application "cannot claim priority to the PCT application or the EP Application under 35 U.S.C. § 119(a)." Applicants also state that the mistake is not correctable by any other avenue. Therefore, the petition to covert must be granted to avoid loss of patent rights.

That is not the case.

Applicants could correct the priority claim by filing a petition under 37 CFR 1.78 along with either a Certificate of Correction, or the filing of a reissue application.¹ See MPEP § 1481.03.

Since another remedy available, applicants request to convert the application to a filing under 35 U.S.C. § 371 will not be granted.

DECISION

For the reasons discussed above, applicants' renewed request under 37 CFR 1.182 is **DISMISSED** without prejudice

If reconsideration on the merits of any part of this decision is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are available.

Applicants previously submitted a \$400.00 petition fee. A second petition fee is not required. The additional petition fee has been refunded.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



James Thomson
Attorney Advisor

Office of PCT Legal Administration

Tel.: (571) 272-3302

¹ Applicants should note that 35 U.S.C. § 120 requires that the application (as opposed to the patent) contain or be amended to contain the necessary reference. Therefore, applicants must file an ADS or an amendment (complying with 37 CFR 1.121) stating the proper relationship of the international application to the prior filed U.S. nonprovisional application (now Patent No. 7,947,830) along with a Certificate of Correction or Reissue Application.



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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27777

Philip S. Johnson
JOHNSON & JOHNSON
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

MAILED

MAR 05 2012

PCT LEGAL ADMINISTRATION

In re Application of
VAN BRANDT *et al*
Patent No.: 7,947,830
Application No.: 11/626,215
Filing Date: January 23, 2007
Attorney Docket No.: 026038.0283PTUS
For: SUBSTITUTED PROPENYL
PIPERAZINE DERIVATIVES AS
NOVEL INHIBITORS OF HISTONE
DEACETYLASE

DECISION

This is a decision on the papers titled "Petition for Correcting Claim for Priority under 37 CFR § 1.78" filed December 19, 2011.

The petition is hereby **DISMISSED** as **MOOT** for the following reason:

Applicants are attempting to convert the above-captioned patent application to a filing under 35 U.S.C. § 371 pursuant to 37 CFR 1.78.

That is not possible.

The petition procedures under 37 CFR 1.78(a)(3) and (a)(6) are for adding or correcting delayed benefit claims to prior filed national and international applications designating the United States. As such, 37 CFR 1.78 is not a proper vehicle to convert an application filing from a filing under 35 U.S.C. § 111(a) to a 35 U.S.C. § 371 national stage filing. Such a request does not involve adding a benefit claim to a prior filed application under 35 U.S.C. § 120 or 119(e).

As discussed in the Decision mailed June 23, 2011, the above-captioned application was properly treated by the Office as a filing under 35 U.S.C. § 111(a).

Applicants may wish to consider claiming benefit to PCT/EP2005/053611 under 35 U.S.C. § 120 by filing a petition under 37 CFR 1.78(a)(3). Such a petition would need to include a supplemental ADS or amendment (complying with 37 CFR 1.121) stating the proper relationship of U.S. application No. 11/626,215 to the prior-filed international application along with a corrected Certificate of Correction.

Please note that a petition under 37 CFR 1.78(a)(6) to add or correct a benefit claim to

a provisional application is not available after issuance. See MPEP § 1402 regarding adding or correcting benefit claims to provisional applications via reissue.

Since the papers filed December 19, 2011 are not considered a proper petition under 37 CFR 1.78, the petition fee of \$1,410.00 will be refunded.

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web, by facsimile to the Office of PCT Legal Administration at (571) 273-04559, or if mailed addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Any questions concerning this matter may be directed to James Thomson at (571) 272-3302.



Boris Milef
Legal Examiner
Office of PCT Legal Administration

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/18/11TO SPE OF : ART UNIT 1711SUBJECT : Request for Certificate of Correction for Appl. No.: 11626456 Patent No.: 7815971CofC mailroom date: 02/03/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)**Randolph Square – 9D10-A****Palm Location 7580****You can fax the Directors/SPE response to 571-270-9990****Certificates of Correction Branch***Lamonte Newsome***Certificates of Correction Branch****571-272-3421****Thank You For Your Assistance****The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☐ **Approved**

All changes apply.

☒ **Approved in Part**Specify below which changes **do not** apply.☐ **Denied**

State the reasons for denial below.

Comments: All changes except those to col. 15 should be
Entered. The changes proposed for col. 15 would constitute
new matter as they would introduce a new compound not

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

previously in the specification.



Michael Barr
Art Unit 1711

2/23/11

SPE

Art Unit



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed : 03/07/11

Patent No. : 7815971 B2
Patent Issued : 10/19/10
Docket No. : **61287US005**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Respecting the alleged errors in the documents filed on 02/03/11; please see attachments.

"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."

In view of the foregoing, your request in this matter is hereby Approved-in-Part.

A certificate of correction will be issued to correct the remaining errors noted in your request.

A handwritten signature in cursive script that reads "Lamonte M. Newsome".

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 02/18/11

Paper No.: _____

TO SPE OF : ART UNIT 1711

SUBJECT : Request for Certificate of Correction for Appl. No.: 11626456 Patent No.: 7815971

CofC mailroom date: 02/03/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580**

You can fax the Directors/SPE response to 571-270-9990

Certificates of Correction Branch

Lamonte Newsome

**Certificates of Correction Branch
571-272-3421**

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☐ **Approved**

All changes apply.

☒ **Approved in Part**

Specify below which changes do not apply.

☐ **Denied**

State the reasons for denial below.

Comments: All changes except those to col. 15 should be
Entered. The changes proposed for col. 15 would constitute
new matter as they would introduce a new compound not

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Previously in the specification.



Michael Barr
Art Unit 1711

2/23/11

SPE

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110324

DATE : March 24, 2011

TO SPE OF : ART UNIT 1711

SUBJECT : Request for Certificate of Correction on Patent No.: 7815971

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Certificates of Correction Branch - ST (South Tower) 9A22

Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments:

The request for certificate of correction filed 3/24/11 is approved.

/MICHAEL BARR/
Supervisory Patent Examiner.Art Unit 1711

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/29/11

TO SPE OF : ART UNIT 1711

SUBJECT : Request for Certificate of Correction for Appl. No.: 11626456 Patent No.: 7815971

CofC mailroom date: 03/24/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)

Randolph Square 9D40-D

Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION



Michael Barr
SPE 1711

1711

SPE

Art Unit



UNITED STATES PATENT AND TRADEMARK OFFICE

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January 25, 2011

Patrick J. Stanzione
Stanzione & Kim, LLP
919 18th St., NW
Suite 440
Washington, DC 20006

Patent No. : 7,724,164 B2
Ser. No. : 11/626,522
Inventor(s) : Hyung-Soo Ohk, et al.
Issued : May 25, 2010
Docket No. : 104-1275
Title : APPARATUS AND METHOD OF DYNAMICALLY CACHING SYMBOLS TO MANAGE A
DICTIONARY IN A TEXT IMAGE CODING AND DECODING SYSTEM

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing *incorrect or erroneous* assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 (*see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481*). This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

- A. the processing fee set forth in 37 CFR 1.17(i) (currently \$130);
- B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
- C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: Customer Service Window
 Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By fax: (571) 273-0025
 ATTN: Office of Petitions

If a fee (currently \$100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) 272-0460 or (703) 756-1814

vt



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STANZIONE & KIM, LLP
919 18TH STREET, N.W.
SUITE 440
WASHINGTON DC 20006

MAILED
MAY 17 2011
OFFICE OF PETITIONS

In re Patent No. 7,724,164 :
Issued: May 25, 2010 :
Application No. 11/626,522 : DECISION ON PETITION
Filed: January 24, 2007 :
Attorney Docket No. 104-1275 :

This is a decision on the petition, filed, February 11, 2011, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the assignee's name and residence on the Letters Patent by way of a certificate of correction in the above-identified patent.

The request is GRANTED.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3205. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

¹ See MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/28/11

TO SPE OF : ART UNIT: 1771

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/626,597 Patent No. 7,956,023

CofC mailroom date 12/23/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580**

Ernest C. White, LIE

Certificates of Correction Branch
703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not apply.**

☐ **Denied**

State the reasons for denial below.

Comments: _____

/Michael Marcheschi/

SPE

1775

Art Unit



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Alexandria, VA 22313-1450
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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

MAILED

JUN 27 2011

OFFICE OF PETITIONS

In re Application of :
Dennis Joseph Skaradzinski :
Application No. 11/626,626 :
Filed: January 24, 2007 :
Attorney Docket No. 035637/314153 :

**DECISION ON PETITION
TO WITHDRAW
FROM RECORD**

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 10, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Trent A. Kirk on behalf of all attorneys of record who are associated with customer No. 00826. All attorneys/agents associated with the Customer Number 00826 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed March 1, 2011 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: MARTIN MARIETTA MATERIALS, INC.
2710 WYCLIFF ROAD
RALIEGH, NC 27607



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/626,626	01/24/2007	Dennis Joseph Skaradzinski	035637/314153

CONFIRMATION NO. 1552

POWER OF ATTORNEY NOTICE



826
ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Date Mailed: 06/15/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/10/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101



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Alexandria, VA 22313-1450
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NOV 01 2010

OFFICE OF PETITIONS

HOVEY WILLIAMS LLP
10801 MASTIN BLVD., SUITE 1000
OVERLAND PARK, KS 66210

In re Patent No. 7,666,241 :
Issue Date: February 23, 2010 :
Application No. 11/626,702 : NOTICE
Filed: January 24, 2007 :
Attorney Docket No.: 37986 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MARTINE PENILLA & GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE CA 94085

MAILED

AUG 11 2010

OFFICE OF PETITIONS

In re Application of :
Robert M. Lane et al. :
Application No. 11/626,833 : **DECISION ON PETITION**
Filed: January 24, 2007 :
Attorney Docket No. SUNMP741/SUN060912 :

This is a decision on the petition, filed March 2, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the final Office action mailed June 19, 2010, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on July 19, 2010.

Petitioner asserts that the Office action dated June 19, 2009 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and
3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

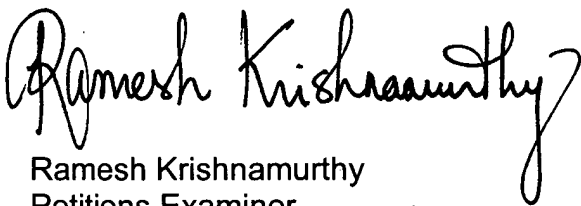
See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at 571-272-4584.

This application is being referred to the Technology Center technical support staff of Art Unit 2183 for re-mailing the Office action of June 19, 2009. The period for reply will run from the mailing date of the Office action.

A handwritten signature in black ink, reading "Ramesh Krishnamurthy". The signature is written in a cursive, flowing style with a large, stylized 'R' and a long, sweeping tail.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Dr. BANGER SHIA
Patent Office of Bang Shia
102 Lindencrest Ct.
Sugar Land TX 77479-5201

MAILED

SEP 3 0 2010

In re Application of	:	OFFICE OF PETITIONS
Hung-Nung Tsai	:	
Application No. 11/626,844	:	DECISION ON PETITION
Filed: January 24, 2007	:	
Attorney Docket No. CFP-3369 (C-148)	:	

This is a decision on the petition under 37 CFR 1.48 being treated as a petition under 37 CFR 1.182, filed, August 12, 2010, to correct the spelling of the name of inventor "Hung-Nung Tasi" to – Hung-Nung Tsai --.

The petition is **DISMISSED**.

The incorrect petition fee was paid herewith petition. The fee for petition under 37 CFR 1.182 is \$400 and the petitioner submitted \$130 which leaves a balance \$270.

The issue fee in this case was paid on August 12, 2010. Therefore, the printing of the patent may have progressed to the point where the correct spelling of the inventor's name could not be included on the front page of the Letters Patent. In such event, petitioner may request a certificate of correction pursuant to the provisions of 37 CFR 1.323 and pay the required fee of \$100.

Any questions concerning this matter may be directed to Terri Johnson at (571) 272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Dr. BANGER SHIA
Patent Office of Bang Shia
102 Lindencrest Ct.
Sugar Land TX 77479-5201

MAILED

DEC 14 2010

OFFICE OF PETITIONS

In re Application of	:	OFFICE OF PETITIONS
Hung-Nung Tsai	:	
Application No. 11/626,844	:	DECISION ON PETITION
Filed: January 24, 2007	:	
Attorney Docket No. CFP-3369 (C-148)	:	

This is a decision on the renewed petition under 37 CFR 1.182, filed, November 29, 2010, to change the name of inventor “Hung-Nung Tasi” to – Hung-Nung Tsai --.

The petition is **DISMISSED**.

The issue fee in this application was paid on August 12, 2010. Effective May 29, 2000, the Office changed the practice by clarifying that an amendment under 37 CFR 1.312 (after allowance) must be filed prior to or with payment of the issue fee, and eliminated 37 CFR 1.312(b). Since a change to the inventor's name is an amendment to the application, and amendments are not permitted after payment of the issue fee, a petition under 37 CFR 1.182 to change the inventor's name cannot be granted. The application was issued into a patent on December 1, 2010.

Nevertheless, the petition may still be granted if a renewed petition under 37 CFR 1.182, along with a request for a certificate of correction and fee of \$100, are submitted.

In view of the above, the petition under § 1.182 cannot be granted at this time to change the inventor's name.

Further correspondence with respect to this matter should be addressed as follows:

By mail: **Mail Stop PETITIONS**
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Terri Johnson at (571) 272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web		PTO/SB/140 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)	
Application Number	11626869	
Filing Date	25-Jan-2007	
First Named Inventor	William Bastian	
Art Unit	3651	
Examiner Name	KAVEL SINGH	
Attorney Docket Number	003436-000027	
Title	THREE-DIMENSIONAL AUTOMATED PICK MODULE	
<p>An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.</p> <p>APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).</p> <p>A grantable petition requires the following items:</p> <p>(1) Petition fee; and</p> <p>(2) One of the following reasons:</p> <p>(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;</p> <p>(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or</p> <p>(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).</p>		
Petition Fee		
<input type="checkbox"/> Applicant claims SMALL ENTITY status. See 37 CFR 1.27.		
<input checked="" type="checkbox"/> Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).		
<input type="checkbox"/> Applicant(s) status remains as SMALL ENTITY.		
<input type="checkbox"/> Applicant(s) status remains as other than SMALL ENTITY		
Reason for withdrawal from issue		

- ☐ One or more claims are unpatentable
- ☒ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees)
- ☐ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).

RCE request, submission, and fee.

- ☒ I certify, in accordance with 37 CFR 1.4(d)(4) that:
The RCE request, submission, and fee have already been filed in the above-identified application on 2011.12.21
- ☐ Are attached.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- ☐ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ☐ A sole inventor
- ☐ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors
- ☐ A joint inventor; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Charles P. Schmal #45,082/
Name	Charles P. Schmal
Registration Number	45082



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : December 21, 2011

In re Application of :

William Bastian

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11626869

Filed : 25-Jan-2007

Attorney Docket No : 003436-000027

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed December 21, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 3651 for processing of the request for continuing examination under 37 CFR 1.114.

Office of Petitions

**CERTIFICATION AND REQUEST
FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN (Page 1 of 2)**

Nonprovisional Application Number or Control Number (if applicable):
11/626,881

Patent Number (if applicable):

First Named Inventor:
H. SASAKI, et al.

Title of Invention:
SEPARATOR FOR FUEL CELL

**APPLICANT/PATENTEE/REEXAMINATION PARTY HEREBY CERTIFIES AND REQUESTS THE
FOLLOWING FOR THE ABOVE-IDENTIFIED APPLICATION/PATENT/REEXAMINATION PROCEEDING.**

1. FOR PATENT APPLICATIONS AND REEXAMINATION PROCEEDINGS PENDING IN THE USPTO AS OF MARCH 11, 2011, IN WHICH A COMMUNICATION FROM THE USPTO IS SOUGHT TO BE REMAILED:
 - a. One or more inventors, an assignee, or a correspondence address (for the application/proceeding) is in an area of Japan affected by the earthquake and/or tsunami of March 11, 2011.
 - b. A reply or response to an Office action (final, non-final, or other), a notice of allowance, or other Office notice (hereinafter collectively referred to as "Office communication") is outstanding on March 11, 2011.
 - c. The statutory or non-statutory time period set for response has not yet expired.
 - d. Withdrawal and reissuance of the Office communication is requested.
 - e. It is acknowledged that if this request is not made within sufficient time so that withdrawal and reissuance of the Office communication occur prior to expiration of the statutory or non-statutory time period (as permitted to be extended under 37 CFR 1.136(a), or as extended under 37 CFR 1.550(c) or 1.956), this request may not be granted.
 - f. The need for the reissuance of the Office communication was due to the effects of the earthquake and/or tsunami of March 11, 2011.
 - g. This request is being sent via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
2. FOR PATENTEES WHO WERE UNABLE TO TIMELY PAY A PATENT MAINTENANCE FEE DURING THE SIX-MONTH GRACE PERIOD FOLLOWING THE WINDOW TO PAY THE MAINTENANCE FEE:
 - a. The original window of time to pay the maintenance fee without the surcharge required by 37 CFR 1.20(h) expired on or after March 11, 2011.
 - b. The delay in paying the fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
 - c. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(h) for paying a maintenance fee during the six-month grace period following the window to pay the maintenance fee.
 - d. This request and payment of the maintenance fee during the six-month grace period following the window to pay the maintenance fee is being mailed to: Director of the United States Patent and Trademark Office, Attn: Maintenance Fee, 2051 Jamieson Avenue, Suite 300, Alexandria, VA 22314; or being transmitted via facsimile to: 571-273-6500.

**CERTIFICATION AND REQUEST
FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN** (Page 2 of 2)

3. FOR PATENTEES WHO NEED TO FILE A PETITION TO ACCEPT A DELAYED MAINTENANCE FEE PAYMENT UNDER 37 CFR 1.378(c):
- The maintenance fee payment was required to have been paid after March 10, 2011.
 - A petition under 37 CFR 1.378(c) (using USPTO form PTO/SB/66 – Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c))) is being promptly filed accompanied by the applicable maintenance fee payment (but not the surcharge under 37 CFR 1.20(i)).
 - The delay in payment of the maintenance fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
 - The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(i) for accepting a delayed maintenance fee payment.
 - It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed by March 11, 2012, in order to be entitled to a waiver of the surcharge under 37 CFR 1.20(i).
 - It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed within twenty-four months from the expiration date of the patent. See 35 U.S.C 41(c).
 - This request and the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) is being submitted via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
4. FOR NONPROVISIONAL PATENT APPLICATIONS FILED WITHOUT AN EXECUTED OATH OR DECLARATION OR PAYMENT OF THE BASIC FILING FEE, SEARCH FEE, AND/OR EXAMINATION FEE:
- The nonprovisional patent application was filed on or after March 11, 2011, and prior to April 12, 2011.
 - The late filing of the oath or declaration or the basic filing fee, search fee, or examination fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
 - The USPTO is requested to *sua sponte* waive the surcharge set forth in 37 CFR 1.16(f) for the late filing of the oath or declaration or basic filing fee, search fee, and/or examination fee.
 - This request, together with the executed oath or declaration or the basic filing fee, search fee, or examination fee, as well as the reply to the Notice to File Missing Parts, is being submitted via EFS-Web or by mail directed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature <u>/Alan E. Schiavelli/</u>	Date <u>5-6-2011</u>
Name (Print/Typed) <u>Alan E. Schiavelli</u>	Practitioner Registration Number <u>32,087</u>
Note: Signatures of all the inventors, § 1.41(b) applicants, or assignees of record of the entire interest or their representative(s), or reexamination requesters at the appeal stage are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.	
<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.	



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

MAILED

MAY 10 2011

OFFICE OF PETITIONS

In re Application of
Hironori SASAKI et al.
Application No. 11/626,881
Filed: January 25, 2007
Attorney Docket No.: 520.47049X00

DECISION ON PETITION

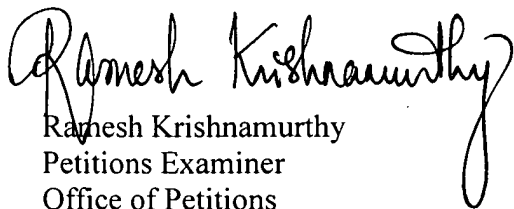
This is a decision on the request filed May 6, 2011, seeking relief under the provisions of "Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners Affected by the Catastrophic Events of March 11, 2011 in Japan," 1365 Off. Gaz. Pat. Office 170 (April 19, 2011).

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on January 31, 2011. The instant petition was filed prior to the expiration of the period for reply and the certifications for granting of relief are considered to be met by the submission of the request.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4914. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This application is being referred to the Technology Center, Art Unit 1726 for re-mailing of the Office action of January 31, 2011. The period for reply will run from the mailing date of the Office action.


Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LUEDEKA, NEELY & GRAHAM, P.C.
P O BOX 1871
KNOXVILLE TN 37901

MAILED

FEB 22 2011

OFFICE OF PETITIONS

In re Application of :
Jeffrey Lloyd et al. :
Application No. 11/627,069 : **RESPONSE TO PETITION**
Filed: January 25, 2007 :
Attorney Docket No. : 61869.P1/ C-5680.5 :

This is a response to the petition under 37 CFR 1.59(b), filed September 9, 2010, to expunge information from the above identified application.

The petition is **DISMISSED**.

Applicant states "pursuant to 37 CFR 1.59(b), expungement of the "Request for Continued Examination" form mistakenly filed in this application on September 8, 2010, is respectfully requested."

However, the petition is premature since prosecution of the application has not been closed by way of the allowance of the application, the mailing of an Ex parte Quayle action, or the abandonment of the application. See MPEP 724.06. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be dismissed at this time.

A petition under 37 CFR 1.59(b) requires the \$200 fee set forth in 37 CFR 1.17(g) and has been charged to Deposit Account No. 13-0017, as authorized.

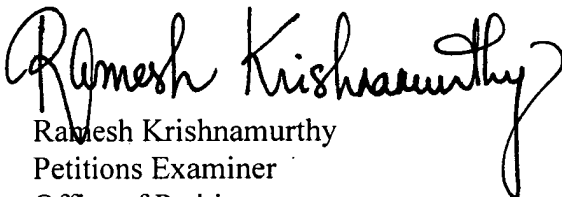
During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material and the conditions related to the expungement of unintentionally submitted information, discussed as A-F in MPEP 724.05 II, are satisfied, the information will be removed from the official file.

After the mailing of a Notice of Allowance, an Ex parte Quayle action or a Notice of Abandonment, the petition to expunge may be renewed by applicant(s) or applicant(s)'

representative. No further fee is required for such a second submission of a petition under 37 CFR 1.59 to expunge information. **In addition, the requester is cautioned to renew the petition under 37 CFR 1.59 for reconsideration by the Office prior to the point at which the present file, or file claiming priority to the present file, is forwarded for issuance of the patent. This is to be done no later than immediately after the examiner has issued a Notice of Allowance, an Ex parte Quayle action or a Notice of Abandonment. A failure to timely renew the petition to expunge prior to the point at which the file is forwarded for issuance will result in the material being retained in the patented file and thus becoming open to the public.**

In regard to the concurrently filed request for refund of the \$405 fee paid on filing the Request for Continued Examination (RCE), it is noted that the fee is required under 37 CFR 1.114. Under 35 U.S.C. 42(d) and 37 CFR 1.26, the Office may refund: (1) a fee paid by mistake (e.g., fee paid when no fee is required); or (2) any fee paid in excess of the amount of fee that is required. See Ex parte Grady, 59 USPQ 276, 277 (Comm'r Pat. 1943) (the statutory authorization for the refund of fees under the "by mistake" clause is applicable only to a mistake relating to the fee payment). When an applicant or patentee takes an action "by mistake" (e.g., files an application or maintains a patent in force "by mistake"), the submission of fees required to take that action (e.g., a filing fee submitted with such application or a maintenance fee submitted for such patent) is not a "fee paid by mistake" within the meaning of 35 U.S.C. 42(d). In this instance, the \$405 fee was required in filing the RCE. Thus, even if the RCE was filed by mistake, the fee paid therefor is not a fee paid by mistake and as such will not be refunded.

Telephone inquiries concerning this communication should be directed to the undersigned at (571) 272 - 4914.


Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY NY 11797

MAILED

MAR 09 2011

OFFICE OF PETITIONS

In re Application of :
Oh, et al. :
Application No. 11/627,139 :
Filed: January 25, 2007 :
Attorney Docket No. 8836-234 DIV (IJ13045- :
US) :
For: CONTACT STRUCTURE OF
SEMICONDUCTOR DEVICES AND
METHOD OF FABRICATING THE SAME

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 1, 2011, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application, mailed February 16, 2007, which set a two month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on April 17, 2007. A Notice of Abandonment was mailed on October 31, 2007.

Applicants have submitted a proper reply to the February 16, 2007 Notice in the form of \$104.00 in additional claim fees, an acceptable statement of the unintentional nature of the delay in responding to the February 16, 2007 Notice, and the \$1,620.00 petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

After the mailing of this decision, the file will be returned to the Office of Patent Application Processing for further pre-examination processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**GOODWIN PROCTER LLP
ATTN: PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK CA 94025-1105**

MAILED

DEC 13 2011

OFFICE OF PETITIONS

In re Application of	:	
WINTERS, et al	:	
Application No. 11/627,149	:	DECISION ON PETITION
Filed: January 25, 2007	:	
Attorney Docket No. RDA-0013	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 28, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed May 27, 2010, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 28, 2010. A Notice of Abandonment was mailed December 8, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment and election, (2) the petition fee of \$930; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE
CENTER WEST
155 SEAPORT BLVD
BOSTON MA 02110**

**MAILED
MAR 26 2012
OFFICE OF PETITIONS**

In re Application of :
SRINIVASAN, et al :
Application No. 11/627,150 : **DECISION ON PETITION**
Filed: January 25, 2007 :
Attorney Docket No. LHJ-001.01 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 3, 2012, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before May 23, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed February 22, 2011, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 24, 2011. A Notice of Abandonment was mailed June 9, 2011.

The statement of delay is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

- (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
- (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
 - (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
 - (3) An assignee as provided for under § 3.71(b) of this chapter; or
 - (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Thirunarayanan Srinivasan) was ever given a power of attorney to act on behalf of inventors Ramesh Ramamurthy, Kannan Krishnan, Muralidharan and Gopakumar Padmanabhan, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unintentional delay.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

MAILED

FEB 08 2011

OFFICE OF PETITIONS

In re Application of :
Theodore M. Shikuma, et al. :
Application No.: 11/627,218 : **ON PETITION**
Filed: January 25, 2007 :
Attorney Docket No.: 86461/8487 [50V8350.03] :

This is a decision on the petition, filed February 7, 2011, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 20, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2424 for further processing of the request for continued examination under 37 CFR 1.114.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12-3-10

TO SPE OF : ART UNIT 3714

SUBJECT : Request for Certificate of Correction for Appl. No.: 11627271 Patent No.: 7824262

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (C of C)
Randolph Square – 9D10-E
Palm Location 7580**

Omega Lewis
Certificates of Correction Branch
703-756-1575

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not apply.**

☐ **Denied**

State the reasons for denial below.

Comments: APPROVED

/David L Lewis/ **3714**



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HOLME ROBERTS & OWEN LLP
1700 LINCOLN STREET, SUITE 4100
DENVER CO 80203

MAILED

MAR 04 2011

OFFICE OF PETITIONS

In re Application of

BAROLAT, Giancarlo

Application No. 11/627,337

Filed: January 25, 2007

Attorney Docket No. 53613-10200

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 05, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Mark Yaskanin on behalf of all attorneys of record who are associated with customer No. 23337. All attorneys/agents associated with the Customer Number 23337 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Giancarlo at the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **DR. GIANCARLO BAROLAT**
730 GENESSE MOUNTAIN ROAD
GOLDEN CO 80401

**CERTIFICATION AND REQUEST
FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN** (Page 1 of 2)

Nonprovisional Application Number or Control Number (if applicable): 11/627,386	Patent Number (if applicable):
First Named Inventor: Gunji	Title of Invention: FUEL CELLS POWER GENERATION SYSTEM

APPLICANT/PATENTEE/REEXAMINATION PARTY HEREBY CERTIFIES AND REQUESTS THE FOLLOWING FOR THE ABOVE-IDENTIFIED APPLICATION/PATENT/REEXAMINATION PROCEEDING.

1. FOR PATENT APPLICATIONS AND REEXAMINATION PROCEEDINGS PENDING IN THE USPTO AS OF MARCH 11, 2011, IN WHICH A COMMUNICATION FROM THE USPTO IS SOUGHT TO BE REMAILED:
 - a. One or more inventors, an assignee, or a correspondence address (for the application/proceeding) is in an area of Japan affected by the earthquake and/or tsunami of March 11, 2011.
 - b. A reply or response to an Office action (final, non-final, or other), a notice of allowance, or other Office notice (hereinafter collectively referred to as "Office communication") is outstanding on March 11, 2011.
 - c. The statutory or non-statutory time period set for response has not yet expired.
 - d. Withdrawal and reissuance of the Office communication is requested.
 - e. It is acknowledged that if this request is not made within sufficient time so that withdrawal and reissuance of the Office communication occur prior to expiration of the statutory or non-statutory time period (as permitted to be extended under 37 CFR 1.136(a), or as extended under 37 CFR 1.550(c) or 1.956), this request may not be granted.
 - f. The need for the reissuance of the Office communication was due to the effects of the earthquake and/or tsunami of March 11, 2011.
 - g. This request is being sent via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
2. FOR PATENTEES WHO WERE UNABLE TO TIMELY PAY A PATENT MAINTENANCE FEE DURING THE SIX-MONTH GRACE PERIOD FOLLOWING THE WINDOW TO PAY THE MAINTENANCE FEE:
 - a. The original window of time to pay the maintenance fee without the surcharge required by 37 CFR 1.20(h) expired on or after March 11, 2011.
 - b. The delay in paying the fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
 - c. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(h) for paying a maintenance fee during the six-month grace period following the window to pay the maintenance fee.
 - d. This request and payment of the maintenance fee during the six-month grace period following the window to pay the maintenance fee is being mailed to: Director of the United States Patent and Trademark Office, Attn: Maintenance Fee, 2051 Jamieson Avenue, Suite 300, Alexandria, VA 22314; or being transmitted via facsimile to: 571-273-6500.

**CERTIFICATION AND REQUEST
FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN** (Page 2 of 2)

3. FOR PATENTEES WHO NEED TO FILE A PETITION TO ACCEPT A DELAYED MAINTENANCE FEE PAYMENT UNDER 37 CFR 1.378(c):
- The maintenance fee payment was required to have been paid after March 10, 2011.
 - A petition under 37 CFR 1.378(c) (using USPTO form PTO/SB/66 – Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c))) is being promptly filed accompanied by the applicable maintenance fee payment (but not the surcharge under 37 CFR 1.20(i)).
 - The delay in payment of the maintenance fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
 - The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(i) for accepting a delayed maintenance fee payment.
 - It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed by March 11, 2012, in order to be entitled to a waiver of the surcharge under 37 CFR 1.20(i).
 - It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed within twenty-four months from the expiration date of the patent. See 35 U.S.C 41(c).
 - This request and the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) is being submitted via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
4. FOR NONPROVISIONAL PATENT APPLICATIONS FILED WITHOUT AN EXECUTED OATH OR DECLARATION OR PAYMENT OF THE BASIC FILING FEE, SEARCH FEE, AND/OR EXAMINATION FEE:
- The nonprovisional patent application was filed on or after March 11, 2011, and prior to April 12, 2011.
 - The late filing of the oath or declaration or the basic filing fee, search fee, or examination fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
 - The USPTO is requested to *sua sponte* waive the surcharge set forth in 37 CFR 1.16(f) for the late filing of the oath or declaration or basic filing fee, search fee, and/or examination fee.
 - This request, together with the executed oath or declaration or the basic filing fee, search fee, or examination fee, as well as the reply to the Notice to File Missing Parts, is being submitted via EFS-Web or by mail directed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature <u>/Alan E. Schiavelli/</u>	Date <u>5/19/11</u>
Name (Print/Typed) <u>Alan E. Schiavelli</u>	Practitioner Registration Number <u>32,087</u>
<p>Note: Signatures of all the inventors, § 1.41(b) applicants, or assignees of record of the entire interest or their representative(s), or reexamination requesters at the appeal stage are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.</p>	
<input type="checkbox"/> *Total of _____ forms are submitted.	

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

MAILED
MAY 23 2011
OFFICE OF PETITIONS

In re Application of :
Gunji et al. :
Application No. 11/627,386 : **DECISION ON PETITION**
Filed: January 26, 2007 :
Attorney Docket No. 500.47135X00 :

This is a decision on the request filed May 19, 2011, seeking relief under the provisions of "Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners Affected by the Catastrophic Events of March 11, 2011 in Japan," 1365 Off. Gaz. Pat. Office 170 (April 19, 2011).

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on December 22, 2010. The instant petition was filed prior to the expiration of the period for reply and the certifications for granting of relief are considered to be met by the submission of the request.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This application is being referred to the Technology Center, Art Unit 1728 for re-mailing the Office action of December 22, 2010. The period for reply will run from the mailing date of the Office action.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/3/11TO SPE OF : ART UNIT 2624SUBJECT : Request for Certificate of Correction for Appl. No.: 12/627,413 Patent No. 7,916,907CofC mailroom date 5/12/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square - 9D10-A
Palm Location 7580

Ernest C. White, LIE

Certificates of Correction Branch
703-756-1814

Thank You For Your Assistance

571-270-9892**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**Specify below which changes **do not** apply.☐ **Denied**

State the reasons for denial below.

Comments: _____


SUPERVISORY SPENT EXAMINER

2624
Art Unit



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LOCKE LORD BISSELL & LIDDELL LLP
600 TRAVIS STREET SUITE 2800
HOUSTON TX 77002-3095

MAILED

DEC 16 2010

OFFICE OF PETITIONS

In re Application of :
Robert Hollis :
Application No. 11/627,467 : **DECISION ON PETITION**
Filed: January 26, 2007 :
Attorney Docket No. 021840-421US :
For: OVAL FILTER CAGE AND VACUUM
CLEANER :

This is a decision on the petition, filed November 19, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed April 8, 2010, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on November 3, 2010.

Petitioner contends a reply to the non-final Office action was submitted on November 1, 2010. Petitioner states that an amendment, request for a three-month extension of time, certificate of mailing and post card were filed on November 1, 2010 with a certificate of mailing dated October 8, 2010. A postcard receipt with an Office stamp of November 1, 2010 also accompanies the petition.

Pursuant to 37 CFR 1.8, correspondence will be considered timely if the party who forwarded such correspondence:

- 1) Correspondence will be considered as being timely filed if:
 - (i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
 - (A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail;
 - (B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6 (d); or
 - (C) Transmitted via the Office electronic filing system in accordance with § 1.6(a)(4); and
 - (ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date

indicated.

The petition satisfies the above requirements of 37 CFR 1.8. Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of April 8, 2010 is hereby withdrawn and the application restored to pending status.

The Office has located the original reply received on November 1, 2010

This application is being referred to Technology Center AU 3723 for appropriate action in the normal course of business on the reply received on November 1, 2010.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

A handwritten signature in black ink, appearing to read 'Charlema Grant', with a long, sweeping horizontal line extending to the right.

Charlema Grant
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No. _____

DATE 10/05/10

TO SPE OF ART UNIT 2874

SUBJECT Request for Certificate of Correction for Appl. No.: 11627483 Patent No.: 7702204

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)

Randolph Square 9D40-D

Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes do not apply.

☐ **Denied**

State the reasons for denial below.

Comments: The requested changes/corrections are
approved.

/UYEN-CHAU N. LE/

2874

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE

Art Unit



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
www.uspto.gov

**HUSCH BLACKWELL LLP
4801 MAIN STREET
SUITE 1000
KANSAS CITY MO 64112**

**MAILED
FEB 03 2011
OFFICE OF PETITIONS**

In re Application of
Furry et al.
Application No. 11/627,652
Filed: January 26, 2007
Attorney Docket No. 55838.10008

DECISION ON PETITION
TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 2, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

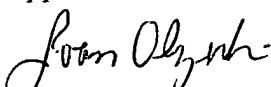
The request was signed by William B. Kircher on behalf of all attorneys of record who are associated with Customer Number 27526.

All attorneys/agents associated with the Customer Number 27526 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

The correspondence address of record remains unchanged.

Currently, there is no outstanding Office action that requires a reply.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.


Joan Olszewski
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 02/13/12

TO SPE OF : ART UNIT 2917

SUBJECT : Request for Certificate of Correction for Appl. No.: 11627671 Patent No.: 8095414

CofC mailroom date: 01/18/12

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Randolph Square – 9D10-A

Palm Location 7580

You can fax the Directors/SPE response to 571-273-3421

Note: **Should the changes to claim 8 be approved?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

Lynda Jasmin

SPE

3624

Art Unit



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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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**HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
3404 E. HARMONY ROAD
MAIL STOP 35
FORT COLLINS CO 80528**

MAILED

JAN 11 2011

OFFICE OF PETITIONS

In re Application of	:	
David LEIGH, et al	:	
Application No. 11/627,716	:	DECISION ON PETITION
Filed: January 26, 2007	:	
Attorney Docket No. 200601547-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 5, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before October 21, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed July 21, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on October 22, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$1510 and publication fee of \$300; (2) the petition fee of \$1620; and (3) the required statement of unintentional delay.

As authorized, the petition, issue and publication fees have been charged.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

The application is being referred to the Office of Data Management for processing into a patent.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: MICHAEL A. DRYJA
LAW OFFICES OF MICHAEL DRYJA
1230 E BASELINE RD #103-248
MESA, AZ 85204



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROSSI, KIMMS & MCDOWELL LLP.
20609 GORDON PARK SQUARE, SUITE 150
ASHBURN, VA 20147

MAILED

DEC 03 2010

OFFICE OF PETITIONS

In re Application of
Michael Broderick
Application No. 11/627,866
Filed: January 26, 2007
Attorney Docket No.: TOMK-0012A

ON PETITION

This is a decision in response to the petition, filed October 19, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

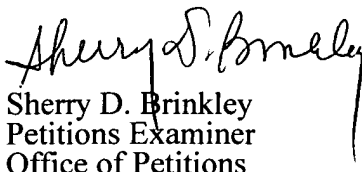
The application was held abandoned for a failure to reply in a timely manner to a non-final Office action mailed March 11, 2010, which set a shortened statutory period for reply of three (3) months. A Notice of Abandonment was mailed on September 15, 2010. On October 19, 2010, the present petition was filed.

The petition is not signed by a registered practitioner of record. However, in accordance with 37 CFR 1.34(a), the signature of Michelle Morgan appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party on whose behalf she acts.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of \$810; and (3) an adequate statement of unintentional delay¹.

The application is being referred to Technology Center AU 3663 for appropriate action by the Examiner in the normal course of business on the reply received June 17, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions

¹ 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.



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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 08/12/2010

Applicant	: Hakan Ancin	: DECISION ON REQUEST FOR
Patent Number	: 7664821	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/627,886	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/26/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **296** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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FOLEY & LARDNER LLP
975 PAGE MILL ROAD
Palo Alto CA 94304

MAILED

JUN 17 2011

OFFICE OF PETITIONS

In re Patent No. 7,928,120	:
Arend et al.	:
Issue Date: April 19, 2011	:
Application No. 11/627,906	:
Filed: January 26, 2007	:
Attorney Docket No. 310477-1351	:
Title: CYANOISOQUINOLINE	:
COMPOUNDS AND METHODS OF USE	:
THEREOF	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR § 1.705(d)" filed on June 13, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred thirty-six (536) days. Patentee disputes the 28-day reduction.

The petition to correct the patent term adjustment indicated on the above-identified patent is **Dismissed**.

The \$200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required. The fee set forth in 37 CFR 1.18(e) is required and will not be refunded.

Patentee disputes the 28 day reduction taken for the submission of the 312 amendment and supplemental declaration on March 8, 2011. Patentee states that a response to the 312 amendment was mailed on March 22, 2011. Thus, the reduction is 15 days which is reflected in the PTA. Therefore patentee maintains the Office has erroneously charged the patent an additional 28 day reduction.

Patentee's argument has been considered and determined to be not persuasive. A total reduction of 43 days, not 15 days is required for the submission of the supplemental declaration.

37 CFR 1.704(c) provides that:

Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

37 CFR 1.704 (c)(10) provides:

(10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;

or

(ii) Four months;

A review of the record shows a reduction pursuant to 37 CFR 1.704(c)(10) of 15 days for the submission of the 312 amendment on March 8, 2011 is required. The reduction is calculated beginning March 8, 2011 and ending on March 22, 2011, the date the communication in response to the 312 amendment was mailed.

Further review of the record shows that a reduction of 43 days for the submission of the supplemental declaration is warranted. The reduction is calculated beginning on March 8, 2011 and ending April 19, 2011, the date the patent issued.

By Notice entitled *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance*, 1247 OG 111 (June 26, 2001), the Director set forth examples of papers deemed not to cause substantial interference and delay in the patent issue process.

Other than those papers identified in this Notice, all papers filed after allowance of an application substantially delay the Office's ability to process an application for a patent because the Office does not wait until payment of the Issue Fee to begin the patent issue process. The submission of a declaration after the notice of allowance has been identified as a document that causes substantial interference and delay. Further, the response to the 312 amendment did not address the submission of the declaration.

Since the 15 days for the 312 amendment overlaps with the 43 days for the submission of drawings a total (c)(10) reduction of 43 (15 + 28) days is warranted.

In view thereof, the patent is entitled to an overall adjustment of 508 days.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3215.



Charlema Grant
Attorney
Office of Petitions



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MAILED
SEP 19 2011
OFFICE OF PETITIONS

In re Patent No. 7,928,120 :
Arend et al. : DECISION ON REQUEST FOR
Issue Date: April 19, 2011 : RECONSIDERATION OF
Application No. 11/627,906 : PATENT TERM ADJUSTMENT
Filed: January 26, 2007 :
Attorney Docket No. 310477-1351 :
Title: CYANOISOQUINOLINE :
COMPOUNDS AND METHODS OF USE :
THEREOF :

This is a decision on the "PETITION FOR RECONSIDERATION OF DECISION REGARDING PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)". Patentees request that the determination of patent term adjustment under 35 U.S.C. § 154(b) be corrected from 508 days to 536 days.

The petition to change patent term adjustment determination under 35 U.S.C. § 154(b) from 508 days to a 536 days is **DENIED**.

BACKGROUND

On April 19, 2011, the above-identified application matured into U.S. Patent No. 7,928,120, with a revised patent term adjustment of 508 days. On June 13, 2011 the initial request for reconsideration was filed. On June 17, 2011 the request for reconsideration was dismissed. On August 5, 2011, patentees submitted this request for reconsideration of patent term adjustment.

Patentees continue to dispute the reduction of 28 days under 37 CFR 1.704(c)(10) in connection with the supplemental declaration filed March 8, 2011 after the mailing of the Notice of Allowance.

Patentees contend the supplemental declaration was filed as part of and discussed in applicants' §312 amendment under 37 CFR §1.67(a)(2) to correct the primary citizenship of inventor Flippin. Patentees argue that the supplemental declaration does not constitute a failure to engage in reasonable efforts to conclude processing or examination of the application. Instead applicants state the filing of a supplemental declaration to correct an error that could not have been corrected earlier demonstrates diligence, not delay. Patentees also argue that the filing of the supplemental oath or declaration does not appear in the list of actions contained in 37 CFR 1.704(c) that constitute per se failure of an applicant to engage in reasonable efforts. Lastly, patentees maintain that the supplemental declaration was not a separate paper but was filed with the 312 amendment. Thus, any reduction ended with the mailing of the response to the 312 amendment mailed March 18, 2011.

RELEVANT STATUTE AND REGULATIONS

35 U.S.C. 154(b)(2)(c) states:

REDUCTION OF PERIOD OF ADJUSTMENT. —

(i) The period of adjustment of the term of a patent under paragraph (1) shall be reduced by a period equal to the period of time during which the applicant failed to engage in reasonable efforts to conclude prosecution of the application.

...

(iii) The Director shall prescribe regulations establishing the circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application.

37 CFR 1.704(c) provides that:

Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

37 CFR 1.704 (c)(10) provides:

(10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;

or

(ii) Four months;

MPEP 2732 states, in pertinent part:

37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process. Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed, 1247 Off.Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or

"Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office). Papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application include: (1) a request for a refund; (2) a status letter; (3) amendments under 37 CFR 1.312; (4) late priority claims; (5) a certified copy of a priority document; (6) drawings; (7) letters related to biologic deposits; and (8) **oaths or declarations**. 37 CFR 1.704(c)(10) provides that in such a case the period of adjustment set forth in 37 CFR 1.703 shall be reduced by the lesser of: (1) the number of days, if any, beginning on the date the amendment under 37 CFR 1.312 was filed and ending on the mailing date of the Office action or notice in response to the amendment under 37 CFR 1.312 or such other paper; or (2) four months. The phrase "lesser of ...or [f]our months" is to provide a four-month cap for a reduction under 37 CFR 1.704(c)(10) if the Office takes longer than four months to issue an Office action or notice in response to the amendment under 37 CFR 1.312 or other paper.

OPINION

Patentees' argument has been considered and determined to be not persuasive. It is undisputed that patentees filed an amendment and a supplemental declaration on March 8, 2011 after the mailing of the Notice of Allowance. While a "Response To Rule 312 Communication" was mailed on March 22, 2011, the response addressed entry of the 312 amendment.

The record shows a reduction pursuant to 37 CFR 1.704(c)(10) of 15 days for the submission of the 312 amendment on March 8, 2011 is required. The reduction is calculated beginning March 8, 2011 and ending on March 22, 2011, the date the communication in response to the 312 amendment was mailed. Further review shows an additional reduction pursuant to 37 CFR 1.704(c)(10) of 43 days for the submission of the supplemental declaration on March 8, 2011 is required. The reduction is calculated beginning March 8, 2011 and ending on April 19, 2011, the date of the issuance of the patent. Since the 15 days for the 312 amendment overlaps with the 43 days for the submission of drawings a total (c)(10) reduction of 43 (15 + 28) days is warranted.

Contrary to patentees' argument, the 312 amendment and the supplemental declaration pursuant to 37 CFR 1.67 are two distinct documents. The 312 amendment involved amendments to the claims that did not involve a requirement to submit a supplemental declaration. Thus, the submission of the supplemental declaration was not in support of the 312 amendment. The mere reference of the declaration in the 312 amendment and the fact the two documents were submitted on the same day does not make the supplemental declaration part of the 312 amendment. Further MPEP 2732 clearly states that the submission of a declaration is indeed one of the papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application. Patentees had the length of prosecution to submit a supplemental declaration which may have not resulted in a patent term reduction.

CONCLUSION

For the above-stated reasons, a review of the petition and file wrapper of the above-identified patent reveals that the above-identified patent is not entitled to a patent term extension or adjustment of 536 days. Therefore, the petition to change the patent term adjustment indicated on the above-identified patent to 536 days is **denied**.

This decision may be viewed as final agency action. See MPEP § 1002.02(b).

Telephone inquiries specific to this matter should be directed to Charlema Grant, Petitions Attorney at (571) 272-3215.



Anthony Knight
Director
Office of Petitions



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/627,938	01/26/2007	S. Jerrold Kaplan	WIN-002	2898
22888 7590 04/21/2011 BEVER HOFFMAN & HARMS, LLP 901 Campisi Way Suite 370 Campbell, CA 95008			EXAMINER YOO, JASSON H	
			ART UNIT 3718	PAPER NUMBER
			NOTIFICATION DATE 04/21/2011	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mserna@beverlaw.com
creddick@beverlaw.com

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BEVER HOFFMANS & HARMS, LLP
TRI-VALEY OFFICE
1432 CONCANNON BLVD., BLDG. G
LIVERMORE, CA 94550

In re Application of:)	
Jerrold Kaplan)	
Application No. 11/627938)	
Filed: January 26, 2007)	DECISION ON PETITION UNDER 37
For: GAMES PROMOTING)	C.F.R. § 1.84(a)(2) TO ACCEPT
COOPERATIVE AND)	COLOR DRAWINGS
INTERACTIVE PLAY)	
)	
)	

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed March 9, 2007, requesting acceptance of color drawings.

The petition requests that the color drawings, although not specifically identified but noted as, Figures 2-7 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. § 1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), three (3) sets of the color drawings in question, a black and white photocopy of said drawings, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was filed with the required fee and 3 (three) sets of color drawings of Figures 2-7. The specification at page 4, between paragraphs 0012 and 0013 is being amended to contain the required notification described above.

The petition is **GRANTED**.

The application file is being forwarded to the assigned examiner to await examination based upon its filing date.

/Peter Vo/
Peter Vo, SPE Technology Center 3700



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/628,015	02/26/2007	Takeshi Mori	20452	1185

EXAMINER	
NGUYEN, VAN KIM T	

ART UNIT	PAPER NUMBER
2456	

MAIL DATE	DELIVERY MODE
06/30/2011	PAPER

7590 06/30/2011
SCULLY SCOTT MURPHY & PRESSER, PC
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d) *The declaration of express abandonment will not be recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

- ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
- ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
- ☒ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
- ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Kimberly Terrell
K. Terrell
Patent Publication Branch
Office of Data Management

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/21/2012

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/628086 Patent No.: 7923585 B2

CofC mailroom date: 3/12/2012

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580**

Note: _____

Virginia Tolbert

**Certificates of Correction Branch
(571) 272-0460**

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not apply.**

☐ **Denied**

State the reasons for denial below.

Comments: _____

/Susanna Moore/
acting SPE

1621

SPE

Art Unit



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/628,256	09/26/2007	Stephen O'Brien	2413.029US1	2136
21186 7590 05/24/2011 SCHWEGMAN, LUNDBERG & WOESSNER, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402			EXAMINER LIAO, DIANA J	
			ART UNIT 1736	PAPER NUMBER
			NOTIFICATION DATE 05/24/2011	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspto@slwip.com
request@slwip.com



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MAY 23 2011

wk

Mailed :

In re Application of

O'Brien et al.

Serial No. 11/628,256

Filed: September 26, 2007

For: **METHODS FOR PREPARING**

SINGLE-WALLED CARBON NANOTUBES

: **DECISION ON**

: **PETITION**

:

:

This is a decision on the PETITION FILED UNDER 37 CFR 1.144 filed on March 7, 2011.

The Examiner on July 13, 2010 made a restriction requirement for claims 1-9 under lack of unity.

Group I, claims 1-2 drawn to a catalyst.

Group 2, claims 3, 5-9, 18 and 27-29 drawn to a method of making or calcining a catalyst

Group 3, claims 4, 10-17 and 19-26 drawn to a method of making carbon nanotubes using a catalyst

The Examiner asserts that Groups 1, 2 and 3 do not relate to a single general inventive concept because they lack the same or corresponding special technical feature. The Examiner supports the position by citing US 6,846,403. The reference discloses catalysts with a support of mesoporous silica with catalytic metals cobalt and molybdenum are known for hydrogenation and dehydrogenation capabilities. The Examiner asserts that the common technical feature of Groups I-III appears to be a catalyst comprising silica, molybdenum and cobalt. Since this feature does not appear to overcome the prior art, there is a lack of unity.

The Examiner further determined that the application contains claims directed to more than one species of the generic invention. The species was determined to be a catalyst affixed to a substrate by way of (a) spin-coating, dip-coating, or drop-coating and (b) contact printing. Claim 2 (if claims 7-9 and /or 2 are re-drafted to be properly dependent) was found to be generic.

Applicant elected with traverse Group III, claims 4, 10-17 and 19-26. Applicant cancelled non-elected claims 1-2. Applicant amended claims 3, 5-9, 18 and 27-29 to

11/628,256

depend from elected independent claim 4, thereby overcoming the grounds for the restriction.

The Examiner's position is that the two remaining groups are drawn to the creation of two different products, leading to different fields of search. The processes can be used together but they may also be used on their own or with other processes and catalysts. Dependency and linking claims do not guarantee that claims are a part of a single invention.

Unity of invention has to be considered only in relation to the independent claims and not the dependent claims. By "dependent" claim is meant a claim which contains all the features of one or more other claims and contains a reference, preferably at the beginning, to the other claim or claims and then states the additional features claimed (PCT Rule 6.4). The present claims, by dependency, restrict the use of the processes to use together

DECISION

The petition is **GRANTED**.

The restriction requirement is withdrawn.

/W. GARY JONES/
W. Gary Jones
Director, Technology Center 1700
Chemical and Materials Engineering

Suneel Arora
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/28/2011
 TO SPE OF : ART UNIT 1767 EASHOO MARK(SPE)
 SUBJECT : Request for Certificate of Correction for Appl. No.: 11/628277 Patent No.: 8052890

CofC mailroom date: _____

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)
 Randolph Square – 9D10-A
 Palm Location 7580**

Note: _____

H. R. R.

 Certificates of Correction Branch
 571-272-8680 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

**MARK EASHOO, PH.D.
 SUPERVISORY PATENT EXAMINER**

M. Eashoo 1767
 SPE Art Unit



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FAY KAPLUM & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK, NY 10038

Applicant: Schwer, et al.
Appl. No.: 11/628,286
International Filing Date: June 1, 2004
Title: OSTEOSYNTHESIS PLATE
Attorney Docket No.: 10139/09102 (00512-06PUS1)
Pub. No.: US 2010/0069906 A1
Pub. Date: March 18, 2010

MAILED
JAN 20 2011
OFFICE OF PETITIONS

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on May 18, 2010, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the application wherein three of the inventors' names have been omitted.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed **within two months** from the date of the patent application publication. **This period is not extendable.**" A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.¹

The error on the front page of the publication wherein three of the inventor's name was omitted may be Office error, but it is not a material Office error under 37 CFR 1.221. The omission of an inventor's name and residence does not affect the understanding of the application. The mistakes do not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

¹Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

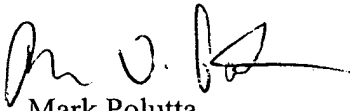
A Quick Start Guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

<http://www.uspto.gov/patents/process/file/efs/guidance/index.jsp>

http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication."

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.



Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy



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FISH & RICHARDSON P.C. (TC)
PO BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

DEC 02 2011

OFFICE OF PETITIONS

In re Patent No. 8,012,747	:
Jacques Perrault	: DECISION ON
Application No. 11/628374	: APPLICATION FOR
Issue Date: 09/06/2011	: PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 09/06/2011	: UNDER 37 CFR 1.705(b)
Attorney Docket No.	:
07252-0031US1	:

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(b), filed on November 7, 2011. Patentee requests that the determination of patent term adjustment be corrected from 889 days to 870 days. The petition is properly treated under 37 CFR §1.705(d).

The request for reconsideration of patent term adjustment is **GRANTED to the EXTENT INDICATED.**

On September 6, 2011, the above-identified application matured into U.S. Patent No. 8,012,747. The patent issued with a PTA of 889 days. The present request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent.

Patentee avers that the Office erred in calculating a reduction of 93 days in connection with the filing of a reply to a non-final Office action, mailed August 13, 2010, three months and 93 days after the reply was due, on February 14, 2011. Patentee asserts that because the reply was due on November 15, 2010, and the period for delay should be calculated from the day after the date that the reply was due, November 16, 2010, to February 14, 2011, and is 91 days, not 93 days, as intended by 35 U.S.C. 154(b)(2)(C)(ii). Applicant references 37 CFR 1.704(b).

Patentee also provides, in good faith and candor, that a reply to a Notice to File Missing Parts of Nonprovisional Application was mailed on June 26, 2007, and Patentees filed a reply on October 17, 2007, three months and 21 days after the reply was due. Patentees submit that Patentee's should have been assessed a reduction of 21 days.

Patentees' arguments have been carefully considered. Regarding the reduction of 93 days in connection with the filing of a reply to a non-final Office action, mailed August 13, 2010, three months and 93 days after the reply was due, on February 14, 2011, Office records confirm that the maximum extendable due date for the reply fell on Sunday, February 13, 2011¹, and the reply filed on Monday, February 14, 2011, is considered timely. Accordingly, the period of reduction is properly calculated beginning on the day after the date that is three months after the date of mailing or transmission of the Office action, November 14, 2010, and ending on the date the reply was considered as timely filed, February 13, 2011, and is 92 days.

A review of Office records also confirms that the Office also errantly neglected to assess a reduction in accordance with 37 CFR 1.704(c)(8), in connection with the filing of a reply to a Notice to File Missing Parts of Nonprovisional Application. The Notice to File Missing Parts of Nonprovisional Application was mailed on June 26, 2007, and Patentees filed a reply on October 17, 2007, three months and 21 days after the reply was due. Pursuant to 37 CFR 1.704(c)(8), the patent term is reduced by a period of 21 days.

In view thereof, it is concluded that the patent should have issued with a revised Patent Term Adjustment of eight hundred sixty-nine (869) days (993 days of Office delay reduced by 124 days of applicant delay).

Receipt is acknowledged of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by eight hundred sixty-nine (869) days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

¹ The deadline to respond to the Office action in this instance was six (6) months. See, 35 U.S.C. § 133. As stated in ArQule, 35 U.S.C. § 21(b) applies to any action an applicant can take, including timeliness of an applicant's response to a PTO request. ArQule at p.10. Patentee avers that the reply to the Office action was due on or before November 15, 2010; however, the reply to the Office action was due on November 13, 2010, and had applicant's acted (filed a reply) on Monday, November 15, 2010, the reply would have been considered timely.

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 8,012,747 B2

DATED : September 6, 2011

INVENTOR(S) : Perrault

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 889 days.

Delete the phrase "by 889 days" and insert – by 869 days--



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MAR 09 2012
OFFICE OF PETITIONS

In re Patent No. 8,012,747	:	
Jacques Perrault	:	DECISION ON
Application No. 11/628374	:	PETITION FOR REVIEW
Filing or 371(c) Date: 10/17/2007	:	OF PATENT TERM ADJUSTMENT
Issue Date: 09/06/2011	:	
Attorney Docket No.	:	
07252-0031US1	:	

This is a decision on the petition filed on February 2, 2012, which is being treated as a renewed petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred seventy (870) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by eight hundred seventy (870) days **GRANTED**.

Patentee filed an Application for Patent Term Adjustment ("PTA") under 37 CFR 1.705(b), on November 7, 2011. The Application for Patent Term Adjustment requested, inter alia, correction of the patent term pursuant to 35 U.S.C. § 154(b)(2)(c)(ii), based upon a three month reply date falling on a weekend. A decision on the Application for Patent Term Adjustment mailed December 2, 2011, dismissed Applicant's request for recalculation of the PTA based upon the three month reply date falling on a weekend.

Patentee files the present renewed petition and renews the request for correction of the patent term in connection with the filing of a reply to an Office action, mailed August 13, 2010, three months and 93 days after the Office action was mailed, on February 14, 2011. Patentee argues that the period of reduction is properly calculated pursuant to 35 U.S.C. § 154(b)(2)(c)(ii), using November 15, as November 13, 2010 falls over a weekend, and that the period of reduction is therefore 91 days.

Patentees' arguments have been carefully considered. A review of the record confirms that November 13, 2010 falls over a weekend, and that the period of reduction is properly calculated

pursuant to 35 U.S.C. § 154(b)(2)(c)(ii), beginning Tuesday, November 16, 2010, and ending on February 14, 2011, and is 91 days.

In view thereof, it is concluded that the patent should have issued with a revised Patent Term Adjustment of eight hundred seventy (870) days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred seventy (870) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 8,012,747 B2

DATED : September 6, 2011

INVENTOR(S) : Perrault

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 889 days.

Delete the phrase "by 889 days" and insert – by 870 days--

23 SEP 2010



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CHRYSLER BUILDING, 37TH FLOOR
405 LEXINGTON AVENUE
NEW YORK NY 10174

In re Application of	:	
Samarasekera et al.	:	
Application No.: 11/628,376	:	DECISION
PCT No.: PCT/US2005/019673	:	
Int. Filing Date: 01 June 2005	:	ON
Priority Date: 01 June 2004	:	
Attorney Docket No.: 57549-0114US	:	PETITION
For: Video Flashlight/Vision Alert	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 16 July 2010.

DISCUSSION

In a Decision mailed on 16 March 2010, the petition under 37 CFR 1.47(a) filed on 19 August 2009 was dismissed, without prejudice, because

Regarding requirement (2), petitioner describes efforts undertaken to obtain Mr. Arpa's signature, but no first-hand statements by Ms. Bennett and Ms. Hsu describing their efforts have been provided. Petitioner indicates that efforts were made to contact Mr. Arpa at his place of employment, but the first time a complete copy of the application papers and a declaration were allegedly sent to his last-known residential address was 23 October 2008. Petitioner has not provided a copy of the 23 October 2008 letter, or of any related postal evidence. It is noted that counsel refers to an address obtained from a telephone directory. Does counsel have reason to believe that his last-known address is no longer valid? If so, it would be appropriate to demonstrate diligent efforts undertaken to ascertain current contact information. For the reasons described, it would not be appropriate to conclude that requirement (2) has been satisfied at this time.

In response, Atty. Tiajolloff further describes the steps taken in order to attempt to secure Mr. Arpa's execution of the application, and provides copies of relevant documentation. In part, petitioner's explanation rests on acts taken by Ms. Bennett and Ms. Hsu, but petitioner has provided a first-hand statement from neither. MPEP 409.03(d) explains (in part) that "Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made." Accordingly, it would be appropriate for petitioner to provide statements by Ms. Hsu and Ms. Bennett.

DECISION

The petition under 37 CFR 1.47(a) is DISMISSED, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283



United States Patent and Trademark Office

TIAJOLOFF & KELLY
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In re Application of
Samarasekera et al.
Application No.: 11/628,376
PCT No.: PCT/US2005/019673
Int. Filing Date: 01 June 2005
Priority Date: 01 June 2004
Attorney Docket No.: 57549-0114US
For: Video Flashlight/Vision Alert

:
:
DECISION
:
ON
:
PETITION
:

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 22 January 2011.

DISCUSSION

In a Decision mailed on 23 September 2010, the renewed petition under 37 CFR 1.47(a) filed on 16 July 2010 was dismissed, without prejudice, because (with respect to requirement (2)),

Atty. Tiajolloff further describes the steps taken in order to attempt to secure Mr. Arpa's execution of the application, and provides copies of relevant documentation. In part, petitioner's explanation rests on acts taken by Ms. Bennett and Ms. Hsu, but petitioner has provided a first-hand statement from neither. MPEP 409.03(d) explains (in part) that "Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made." Accordingly, it would be appropriate for petitioner to provide statements by Ms. Hsu and Ms. Bennett.

In response, petitioner has provided a "Statement of Lynn Y. Hsu," along with supporting evidence. In view of the totality of the evidence presented, it would be reasonable to conclude that the non-signing inventor was presented with a copy of the application and a declaration at his last known address, and it would be appropriate to construe his failure to return the executed declaration as a refusal within the meaning of 37 CFR 1.47(a).

DECISION

The petition under 37 CFR 1.47(a) is GRANTED.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the Office of Patent Application Processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **01 December 2006**.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283



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Plainsboro, NJ 08536

PCT LEGAL ADMINISTRATION

In re Application of
Samarasekera et al.
Application No.: 11/628,376
PCT No.: PCT/US2005/019673
Int. Filing Date: 01 June 2005
Priority Date: 01 June 2004
Attorney Docket No.: 57549-0114US
For: Video Flashlight/Vision Alert

Dear Mr. Arpa:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3283. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Requests for information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283

TIAJOLOFF & KELLY
CHRYSLER BUILDING, 37TH FLOOR

Application No.: 10/514,526

-2-

405 LEXINGTON AVENUE
NEW YORK NY 10174



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FOURTEENTH FLOOR
IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of	:	
Geoffrey Gordon Salter	:	
Application No. 11/628,379	:	ON PETITION
Filed: July 18, 2007	:	
Attorney Docket No. DAVI298.001APC	:	
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 18, 2012, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement (PTO/SB/130 form) by the applicant that applicant is 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7751. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3695 for action on the merits commensurate with this decision.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions



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IM IP Law PLLC
P.O. Box 355
Scarsdale NY 10583

MAILED

MAY 27 2011

OFFICE OF PETITIONS

In re Application of	:	
Jacques Benveniste et al.	:	DECISION ON PETITION
Application No. 11/628,388	:	TO WITHDRAW
Filed: May 10, 2010	:	FROM RECORD
Attorney Docket No. GRYN240US	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36(b), filed May 19, 2011.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks the name of the first inventor or the assignee of record that is associated with the address listed in the request. Therefore, the change of correspondence address is considered improper.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71*, or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

A courtesy copy of this decision is being mailed to the address on the request. However, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-4584.

A handwritten signature in black ink, appearing to read 'JoAnne Burke', is written over the printed name.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Flubright & Jaworski L.L.P.
2200 Ross Avenue, Suite 2800
Dallas, TX 75201-2784



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OFFICE OF PETITIONS

In re Application of	:	
Jacques Benveniste et al.	:	DECISION ON PETITION
Application No. 11/628,388	:	TO WITHDRAW
Filed: May 10, 2010	:	FROM RECORD
Attorney Docket No. GRYN240US	:	

This is a decision on the renewed request to withdraw as attorney of record under 37 CFR § 1.36(b), filed June 24, 2011.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks the name of the first inventor or the assignee of record that is associated with the address listed in the request. The assignee name listed in the request is not of record. Therefore, the change of correspondence address is considered improper.

As stated in the previous decision mailed May 27, 2011, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71*, or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

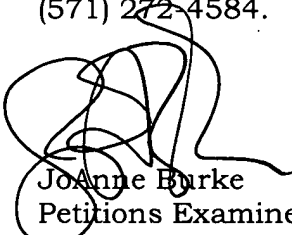
An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Therefore, as there is currently no Statement under 37 CFR 3.73(b) with the current assignee information of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw at this present time.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4584.



JoAnne Burke
Petitions Examiner
Office of Petitions



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2026 RAMBLING ROAD
KALAMAZOO MI 49008-1631

MAILED

AUG 24 2011

OFFICE OF PETITIONS

In re Patent No. 7,686,141
Issue Date : March 30, 2010

Application No. 11/628,422

Filed: November 30, 2006

Attorney Docket No. 5725.P0027US

:
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:
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:

ON PETITION

This is a decision on the petition filed July 15, 2011, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the assignee information on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **DISMISSED**.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

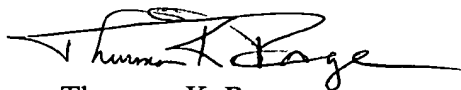
The request under 37 CFR 3.81(b) was not accompanied by a statement that the assignment was submitted for recordation before issuance of the patent, as required by 3.81(b). *See also* MPEP 1481.01.

As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

Inquiries concerning this decision should be directed to Diane C. Goodwyn at (571) 272-6735.

¹ See MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

A handwritten signature in black ink, appearing to read "Thurman K. Page". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Thurman K. Page
Petitions Examiner
Office of Petitions



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MAILED

MAR 25 2011

PCT LEGAL ADMINISTRATION

WENDEROTH, LIND & PONACK L.L.P.
2033 K. STREET, NW
SUITE 800
WASHINGTON DC 20006

In re Application of
HORITA et al.
Application No.: 11/628,433
PCT No.: PCT/JP04/18478
Int. Filing Date: 10 December 2004
Priority Date: 17 June 2004
Attorney Docket No.: 2006_1975A
For: WIRELESS COMMUNICATION SYSTEM

:
:
: DECISION ON RESPONSE
:
: TO NOTIFICATION OF
:
: DEFECTIVE RESPONSE
:

This is a decision on applicant's "Reply to Decision on Response of January 22, 2009" filed in the United States Patent and Trademark Office on 23 February 2009.

BACKGROUND

On 05 December 2006, applicant filed a transmittal letter concerning a filing under 35 U.S.C. 371 accompanied by the basic national fee.

On 11 March 2008, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), and the surcharge for filing the oath or declaration after the thirty month period, was required. The notification specifically stated that the declaration was not executed in accordance with 37 CFR 1.66 or 1.68.

On 12 May 2008, applicant responded to the Notification with an executed declaration. The declaration was executed by Seiji Horita, Shotaro Tanaka, Yasuaki Sakanishi, Masaaki Higashida, Kenshi Taniguchi, Toshihiro Ezaki and Tadayuki Inoue.

On 04 August 2008, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed to applicant indicating that the declaration was not in compliance with 37 CFR 1.497(a) and (b) because the first name of the fifth inventor was different than that which is identified in the published international application (*Takayuki Inoue* vs. *Naoyuki Inoue*).

On 04 September 2008, applicant filed a response to the Form 916 indicating that the "first name of the fifth inventor as printed on the international application is incorrect. Thus, the first name of the fifth inventor is correctly indicated on the executed Declaration as *Tadayuki Inoue*."

On 22 January 2009, a decision on the declaration was mailed to applicant indicating that the declaration, filed on 12 May 2008, was signed by "Tadayuki Inoue". The declaration was not in compliance with 37 CFR 1.497(a) and (b) as the declaration did not name the inventive entity identified in the published international application (*Naoyuki Inoue*).

DISCUSSION

A review of the application file reveals that the given name of the applicant as listed on the published international application is "Naoyuki Inoue." The declaration, filed on 12 May 2008, was signed by "Tadayuki Inoue".

Where the discrepancy between the name of the inventor indicated in the international application during the international phase and the name of the inventor as it appears in the oath or declaration submitted under 37 CFR 1.497 is the result of a typographical or transliteration error, then a petition under 37 CFR 1.182 is not required. In such case, the Office should simply be notified of the error. A new declaration is not required. *See* MPEP 1893.01(e). Applicant notified the Office that the correct inventor's name is YADAYUKI INOUE as indicated in the declaration filed, rather than NAOYUKI INOUE, as incorrectly indicated in the international application as the result of a transliteration error. Applicant's explanation of the correction of inventor's first name *Yadayuki* Inoue is accepted and noted for the record.

CONCLUSION

For the reasons above, the Request is **GRANTED**. No petition fee is required.

The declaration, executed by the inventors, satisfies the requirements of 37 CFR 1.497(a) and (b). The declaration is acceptable as filed.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 12 May 2008.

/Cynthia M. Kratz/
Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459



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March 30, 2011

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

In re Application of	:	
Takashi Shimazu, et al	:	DECISION ON PETITION
Application No. 11628493	:	
Filed: 12/05/2006	:	ACCEPTANCE OF COLOR
Attorney Docket No. 130485	:	DRAWINGS

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R. 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) December 5, 2006.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquiries relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Laura Feldman/
Quality Control Specialist
Office of Data Management
Publications Branch



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HOXIE & ASSOCIATES LLC
75 MAIN STREET, SUITE 301
MILLBURN, NJ 07041

MAILED

AUG 30 2010

In re Application of
Jordi GRAS ESCARDO, et al.
Application No. 11/628,523
Filed: November 29, 2006
Attorney Docket No. **AL-09**

OFFICE OF PETITIONS

DECISION ON PETITION
UNDER 37 CFR 1.181

This is a decision on the petition, filed November 20, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the restriction requirement mailed April 20, 2009, which set a three (1) month or (30) day shortened statutory period for reply. A Notice of Abandonment was mailed on November 3, 2009.

Petitioner asserts that the Office action dated April 20, 2009 was not received.

A review of the written record indicates an irregularity in the mailing of the Office action of April 20, 2009. In this regard, the Office received a change of address on June 11, 2007, prior to the mailing of the Office action of April 20, 2009. Office records were not updated to reflect this new change of address. Accordingly, as the Office action was mailed to an incorrect address, the Notice of Abandonment mailed November 3, 2009 is hereby **vacated** and the holding of abandonment **withdrawn**.

This application is being referred to the Technology Center technical support staff of Art Unit 1628 for remailing the Office action of April 20, 2009 and resetting the period for reply.

Thurman K. Page
Petitions Examiner
Office of Petitions



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APR 13 2011

OFFICE OF PETITIONS

CONTINENTAL TEVES, INC.
ONE CONTINENTAL DRIVE
AUBURN HILLS, MI 48326-1581

In re Application of
Uwe Bach, et al.
Application No. 11/628,544
Filed: December 4, 2006
Attorney Docket No.: AP 10959

ON PETITION

This is a decision in response to the petition, filed February 14, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application was held abandoned for a failure to reply in a timely manner to a non-final Office action mailed January 15, 2010, which set a shortened statutory period for reply of three (3) months. A Notice of Abandonment was mailed on August 3, 2010. On February 14, 2011, the present petition was filed.

The petition is not signed by a registered practitioner of record. However, in accordance with 37 CFR 1.34(a), the signature of Craig Hallacher appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of \$1,620; and (3) an adequate statement of unintentional delay¹.

The application is being referred to Technology Center AU 3657 for appropriate action by the Examiner in the normal course of business on the reply received February 14, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

¹ 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney or agent of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and *Changes to Patent Practice and Procedure*; Final Rule Notice, 62 *Fed. Reg.* 53131, 53178 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/628,558	11/30/2006	Beatrice Baars	06-622	4186
34704 7590 08/13/2010 BACHMAN & LAPOINTE, P.C. 900 CHAPEL STREET SUITE 1201 NEW HAVEN, CT 06510			EXAMINER RICCI, CRAIG D	
			ART UNIT 1628	PAPER NUMBER
			MAIL DATE 08/13/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN CT 06510

Applicant: Baars et al.
Appl. No.: 11/628,558
Filing Date: November 30, 2006
Title: WATER-FREE COSMETIC PREPARATION
Attorney Docket No.: 06-622
Pub. No.: US 2008/0292668 A1
Pub. Date: November 27, 2008

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on August 4, 2010, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)". If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because **the Applicant submitted the papers as a "Document for an existing application", which are entered into the application file, and not as a "Pre-Grant Publication" submission.** The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a Pre-Grant publication submission and must include a copy of the application in compliance with the Office electronic filing system requirements. The applicant is directed to the following website for additional instructions on how to submit a Pre-Grant Publication submission via the electronic filing system:

http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

Any questions or requests for reconsideration of the decision should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Telephone inquiries regarding this correspondence should be directed to The Office of Data Management at 571-272-4200.

A handwritten signature in black ink, appearing to read "Tammy J. Koontz", with a stylized flourish at the end.

Tammy J. Koontz
Office of Data Management
United States Patent & Trademark Office

Adjustment date: 08/13/2010 KKING1
08/05/2010 INTEFSW 00002438 020184 11628558
02 FC:1504 300.00 CR



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Paper No.

Husch Blackwell LLP
Husch Blackwell Sanders LLP Welsh & Katz
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO IL 60606

MAILED


DEC 29 2011

In re Patent No. 7,874,527	:	OFFICE OF PETITIONS
Issue Date: January 25, 2011	:	
Application No. 11/628,577	:	
Inventor: Porrill et al.	:	DECISION ON PETITION
Filed: February 7, 2008	:	PURSUANT TO
Attorney Docket No.	:	37 C.F.R. § 1.182
2311/98730/0010	:	
Title: FASTENING RAIL IN	:	
RAILWAY SLIDE CHAIR ASSEMBLY	:	

This is a decision on the petition filed on December 15, 2011, pursuant to 37 C.F.R. § 1.182, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The file record discloses that application No. 11/628,577 matured into U.S. Patent No. 7,874,527 on January 25, 2011. The electronic records further reveal that on that same date, the Patent Grant was mailed to the address of record. However, Petitioner requests a duplicate, asserting that the Letters Patent has been lost. Receipt of the \$400 petition fee is acknowledged.

The petition is **GRANTED**. **The Publishing Division is directed to issue a duplicate Letters Patent.** The Publishing Division (which may be reached at 571-272-4200) will be made aware of this decision in due course. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.¹



Paul Shanoski
Senior Attorney
Office of Petitions

¹ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).



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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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SEP 08 2011

OFFICE OF PETITIONS

In re Application of	:	
Sivakumar et al.	:	
Application No. 11/628596	:	DECISION ON REQUEST
Filing or 371(c) Date: 10/03/2007	:	FOR RECONSIDERATION OF
Attorney Docket Number: 088245-0195	:	PATENT TERM ADJUSTMENT

This decision is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 C.F.R. § 1.705(b)," filed August 11, 2011. Applicant requests that the Patent Term Adjustment be changed to reflect 714 days, not 481 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent. The application for patent term adjustment is properly treated under 37 C.F.R. § 1.705(b).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE.**

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected

issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee¹.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and *must* include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

¹ For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.



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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Application of
Katsuki Kusunoki
Application No. 11/628,647
Filed: December 6, 2006
Attorney Docket No. Q82156

ON PETITION

This is a decision on the petition, filed August 26, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 27, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2892 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).



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KRATZ, QUINTOS & HANSON, LLP
1420 K STREET, N.W.
4TH FLOOR
WASHINGTON DC 20005

MAILED

OCT 12 2010

OFFICE OF PETITIONS

In re Application of
SUZUKI, Takamasa
Application No. 11/628,734
Filed: October 02, 2007
Attorney Docket No. **1098**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 22, 2010.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71 who has properly intervened.

If an assignee has intervened in this application, then a Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be submitted with a renewed request.

The customer number (21874) listed on the petition is not associated with this application.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **IMPULSE JAPAN, INC.**
7F, HIMAWARI KOTO BUILDING
6-57-14, KAMEIDO, KATO-KU
TOKYO 136-0071
JAPAN

cc: **EDWARDS ANGELL PALMER & DODGE LLP**
P.O. BOX 55874
BOSTON, MA 02205

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110426

DATE : April 26, 2011

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction on Patent No.: US 7,706,241 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Certificates of Correction Branch - PK 3-910

Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments:

SPE: /Craig A. Renner/

Art Unit 2627



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/628,825	12/07/2006	Alexandros Michael Tourapis	PU040184	8621
24498	7590	03/30/2012		
Robert D. Shedd, Patent Operations THOMSON Licensing LLC P.O. Box 5312 Princeton, NJ 08543-5312			EXAMINER ABI NADER, PAOLA B	
			ART UNIT 2485	PAPER NUMBER
			NOTIFICATION DATE 03/30/2012	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspto@technicolor.com
pat.verlangieri@technicolor.com
russell.smith@technicolor.com



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Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton NJ 08543-5312

MAR 29 2012
DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

In re Application of: Tourapis et al.)
Application No. 11/628,825)
Filed: December 7, 2006)
For: **METHOD AND APPARATUS FOR**)
VIDEO CODEC QUANTIZATION)

**DECISION ON PETITION TO
WITHDRAW RESTRICTION
REQUIREMENT UNDER 37 CFR
§1.144**

This is a decision on the petition filed January 25, 2012 under 37 C.F.R. §1.149 and 37 C.F.R. §1.181 to withdraw an outstanding restriction requirement.

The petition is **DISMISSED**.

RELEVANT PROSECUTION HISTORY

October 04, 2011	A lack of unity requirement was made identifying 3 species. Species 1 including claims 1-6, 26-31, 51-53 and 56-58; Species 2 including claims 1, 7-14, 26, 32-38, 51, 56; and Species 3 including claims 1, 15-25, 26, 40-50, 51, 54-56, 59 and 60.
October 12, 2011	A provisional election with traverse was made to Species 2 with missing claim 39 added since it is dependent on claim 38. The traversal was that the restriction has failed to provide an explanation why each group lacks unity with each other.
November 8, 2011	The species requirement was repeated with an explanation why each group lacks unity and the arguments were found not persuasive.
January, 25, 2012	The petition was filed.

REGULATIONS AND PRACTICE

37 C.F.R. § 1.143 states:

If the applicant disagrees with the requirement for restriction, he may request reconsideration and withdrawal or modification of the requirement, giving the reasons therefor. (See § 1.111). In requesting reconsideration the applicant must indicate a provisional election of one invention for prosecution, which invention shall be the one elected in the event the requirement becomes final. The requirement for restriction will be reconsidered on such a request. If the requirement is repeated and made final, the examiner will at the same time act on the claims to the invention elected.

37 C.F.R. § 1.144 states:

After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Commissioner to review the requirement ... A petition will not be considered if reconsideration of the requirement was not requested (see § 1.181).

37 C.F.R. § 1.145 states:

If, after an office action on an application, the applicant presents claims directed to an invention distinct from and independent of the invention previously claimed, the applicant will be required to restrict the claims to the invention previously claimed if the amendment is entered, subject to reconsideration and review as provided in §§ 1.143 and 1.144.

37 C.F.R. § 1.181 states:

- (a) Petition may be taken to the Commissioner:
 - (1) From any action or requirement of any examiner in the ex parte prosecution of an application, or in ex parte or inter partes prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;
 - (2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Commissioner; and
 - (3) To invoke the supervisory authority of the Commissioner in appropriate circumstances. For petitions in interferences, see § 1.644.
- (b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in

support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the ex parte prosecution of an application, or in the ex parte or inter partes prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Commissioner to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

MPEP § 1893.03 (c) states:

When making a lack of unity of invention requirement, the examiner must (1) list the different groups of claims and (2) explain why each group lacks unity with each other group (i.e., why there is no single general inventive concept) specifically describing the unique special technical feature in each group.

MPEP § 1850 states:

II. DETERMINATION OF “UNITY OF INVENTION”

Lack of unity of invention may be directly evident “a priori,” that is, before considering the claims in relation to any prior art, or may only become apparent “a posteriori,” that is, after taking the prior art into consideration. For example, independent claims to A + X, A + Y, X + Y can be said to lack unity a priori as there is no subject matter common to all claims. In the case of independent claims to A + X and A + Y, unity of invention is present a priori as A is common to both claims. However, if it can be established that A is known, there is lack of unity a posteriori, since A (be it a single feature or a group of features) is not a technical feature that defines a contribution over the prior art.

.....

If, however, an independent claim does not avoid the prior art, then the question whether there is still an inventive link between all the claims dependent on that claim needs to be carefully considered. If there is no link remaining, an objection of lack of unity a posteriori (that is, arising only after assessment of the prior art) may be raised. **Similar considerations apply in the case of a genus/species or combination/subcombination situation.**

DECISION

37 C.F.R. § 1.181(c) requires that an action by an examiner, to be properly petitionable, must be followed by a request for reconsideration, and a repeated action by the examiner.

In the above-identified application, applicant filed a request for reconsideration prior to the petition.

Appellant states that the lack of unity requirement fails to: (a) explain why there is no single general inventive concept and (b) describe the unique special technical feature belonging to each group. Appellant also states that unity of invention is not lacking because the common inventive concept provided by limitations of independent claim 1 are included in each of the claims.

A review of the record reveals that the restriction requirement is directed to three species with generic claims 1, 26, 51 and 56. Although the initial restriction requirement was lacking an explanation, the Office Action mailed November 8, 2011 (pages 2-3) described a different special technical feature belonging to each group and the reasons why there is no single general inventive concept. Appellant's position that the claims provide "common general inventive concept" is not persuasive because the instant election of species includes generic claims. More specifically, species 1, 2 and 3 include generic claim 1 of the instant application (i.e. claim 1 includes limitations common to all claims). Since each species has a different special technical feature, then this is an indication that the special technical feature is not the generic dead zone quantizer of claim 1. Moreover, MPEP 1850 (II) indicates that if it can be established that a common limitation is known, there is lack of unity a posteriori, since the common limitation is not a technical feature that defines a contribution over the prior art.

Additionally, the record reveals that the lack of unity in the instant U.S. national stage application is consistent with the lack of unity in the international application.

Since, claim 1 only recites a generic quantizer performing dead-zone quantization and each species includes a different special technical feature that defines a contribution over the prior art, then there is no single general inventive concept and the application therefore lacks unity.

For the above reasons, the petition is **DISMISSED**.

Any inquiry concerning this decision should be directed to Christopher Grant at (571) 272-7294.

Seema S. Rao 3/26/12
Seema Rao
Director TC 2400
Networks, Multiplex, Cable and Security



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PANASONIC PATENT CENTER
1130 CONNECTICUT AVENUE NW,
SUITE 1100
WASHINGTON DC 20036

MAILED
MAR 13 2012
OFFICE OF PETITIONS

**In re Application of
OKADA et al.
Application No.: 11/628,917
Filed: July 25, 2008
Attorney Docket No.: P39145-03
For: RECORDING METHOD AND
RECORDING MEDIUM PLAYBACK
SYSTEM**

**: DECISION ON REQUEST TO
: PARTICIPATE IN THE PATENT
: PROSECUTION HIGHWAY
: PROGRAM AND PETITION
: TO MAKE SPECIAL UNDER
: 37 CFR 1.102(a)**

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(a), filed December 28, 2011, to make the above-identified application special.

The request and petition are **DISMISSED**.

A grantable request to participate in the PPH program and petition to make special require:

1. The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO, note where the JPO application with similar claims is not the same application from which the U.S. application claims priority then the applicant must identify the relationship between the JPO application with similar claims and the JPO priority application;
2. Applicant must submit a copy of:
 - a. The allowable/patentable claim(s) from the JPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the DAS, however if the USPTO is unable to obtain a copy from the DAS the applicant will be required to submit a copy;
 - b. An English translation of the allowable/patentable claim(s) and
 - c. A statement that the English translation is accurate;

3. Applicant must
 - a. Ensure all the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s) and
 - b. Submit a claims correspondence table in English;
4. Examination of the U.S. application has not begun;
5. Applicant must submit:
 - a. Documentation of prior office action:
 - i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the JPO application(s) containing the allowable/patentable claim(s) or
 - ii. if the allowable/patentable claims(s) are from a "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or
 - iii. if the JPO application is a first action allowance then no office action from the JPO is necessary should be indicated on the request/petition form;Further, if a copy of the documents from a or b above is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the DAS, however if the USPTO is unable to obtain a copy from the DAS the applicant will be required to submit a copy;
 - b. An English language translation of the JPO Office action from (5)(a)(i)-(ii) above
 - c. A statement that the English translation is accurate;
6. Applicant must submit:
 - a. An IDS listing the documents cited by the JPO examiner in the JPO office action (unless already submitted in this application)
 - b. Copies of the documents except U.S. patents or U.S. patent application publications (unless already submitted in this application);

Conditions (1-5) above are considered to have been met. However, the request to participate in the PPH pilot program and petition fails meet condition (6).

Regarding the requirement of condition (6), applicant has failed to submit copies of all the references cited in the JP office action. Petitioner did not submit the JP 2004-336566 reference nor was it cited in any of the IDS submitted to the Office. Therefore, the petition cannot be granted at this time.


Applicant is given **ONE** opportunity within a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to

correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Response must be filed via the Electronic Filing System (EFS) using the document description: Petition to make special under Patent Pros Hwy. Any preliminary amendments and IDS submitted with the PPH documents must be separately indexed as a preliminary amendment and IDS, respectively.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at 571-272-4584.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at <http://www.uspto.gov/ebc/index.html>.


David Bucci
Petitions Examiner
Office of Petitions



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AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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Date Mailed: November 1, 2010
Patent No. : 7,673,931 B2
Ser. No. : 11/629007
Issued : March 9, 2010
Inventor(s) Yoshiyuki Takano, et al.
Title WORKING VEHICLE

Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data, attorney agent/firm) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing incorrect or erroneous assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 (*see Manual of Patent Examining Procedures (M.P.E.P.) Chp. 1400, sect. 1481*). This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

- A. **the processing fee set forth in 37 CFR 1.17(h) (currently \$130);**
- B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
- C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently \$100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Magdalene Talley

For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(571) 272-0423

Sushil Shrinivasan
Fish & Richardson
P.O. Box 1022
Minneapolis, MN 55440-1022

MD/mt



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IM IP LAW PLLC
PO BOX 355
SCARSDALE NY 10583

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JAN 31 2012
OFFICE OF PETITIONS

In re
Clodic, et al.
Application No. 11/629,009
Filed: July 31, 2007
Attorney Docket No. GRYN239US

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed January 4, 2012.

The fee deficiency submission under 37 CFR 1.28 of \$1050 is hereby accepted.

The change of status to large entity has been entered.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions



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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

MAILED

SEP 13 2010

In re Application of	:	OFFICE OF PETITIONS
Geiger et al.	:	
Application No. 11/629,019	:	ON PETITION
Filed: August 30, 2007	:	
Attorney Docket No. 4191-000007/US/NP	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.


Alicia Kelley
Petitions Examiner
Office of Petitions



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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of	:	
Cavezza et al.	:	
Application No.: 11/629,196	:	
PCT No.: PCT/EP2005/006333	:	
Int. Filing Date: 16 May 2005	:	DECISION
Priority Date: 15 June 2004	:	
Attorney Docket No.: 299037US0PCT	:	
For: Cosmetic Use Of Piperidine Derivatives	:	

This is in response to the "Request To Correct Filing Date," filed on 23 June 2010.

BACKGROUND

This international application was filed on 16 May 2005, claimed a earlier priority date of 15 June 2004, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 29 December 2005. The 30 month time period for paying the basic national fee in the United States expired at midnight on 15 December 2006. Applicants filed *inter alia* the basic national fee on 12 December 2006.

On 31 May 2007, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring an English translation of the international application and a processing fee under 37 CFR 1.492(i).

Applicants filed a response including *inter alia* said processing fee on 16 July 2007.

On 13 March 2008, a Filing Receipt and a Notice of Acceptance (Form PCT/DO/EO/903) reflecting a 35 U.S.C. 371(c)(1), (2) and (4) date of "07/16/2007" were mailed to applicants.

DISCUSSION

Applicants indicate that the "correct filing date of the application should be: January 30, 2007," and request "correction of your records" to reflect said date. Review of the record reveals that the basic national fee was paid on 12 December 2006. The international application was both filed and published in English; accordingly, no English translation was required. Therefore, the \$130.00 processing fee under 37 CFR 1.492(i) also was not required, and it is being refunded to applicants. Moreover, the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed on 31 May 2007 was issued in error, and it is hereby **VACATED**.

Review of the declaration filed on 30 January 2007 reveals that it does not appear to have been made on a form supplied by the USPTO, or under PCT Rule 4.17(iv), and that it does not appear to have been accompanied by the statement required under 37 CFR 1.69(b). In the absence of said statement, it would not be appropriate to accept the declaration for purposes of compliance with 37 CFR 1.497(a) and (b). Consequently, the Notice of Acceptance (Form PCT/DO/EO/903) mailed on 13 March 2008 was issued prematurely, and it is hereby **VACATED**.

DECISION

The request is **REFUSED**, without prejudice, as described above.

Applicants are required to file an oath or declaration compliant with 37 CFR 1.497(a) and (b) (or the statement required under 37 CFR 1.69(b)) within **TWO (2) MONTHS** of the mailing date of this Decision. Extensions of time under 37 CFR 1.136(a) are available. Failure to timely reply will result in **ABANDONMENT**.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283



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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

DEC 10 2010

In re Application of
Cavezza et al.
Application No.: 11/629,196
PCT No.: PCT/EP2005/006333
Int. Filing Date: 16 May 2005
Priority Date: 15 June 2004
Attorney Docket No.: 299037US0PCT
For: Cosmetic Use Of Piperidine Derivatives

PCT LEGAL ADMINISTRATION

DECISION

This is in response to the renewed "Request To Correct Filing Date," filed on 07 October 2010.

DISCUSSION

In a Decision mailed on 31 August 2010, applicants were advised that

Review of the declaration filed on 30 January 2007 reveals that it does not appear to have been made on a form supplied by the USPTO, or under PCT Rule 4.17(iv), and that it does not appear to have been accompanied by the statement required under 37 CFR 1.69(b). In the absence of said statement, it would not be appropriate to accept the declaration for purposes of compliance with 37 CFR 1.497(a) and (b).

In response, petitioner has provided a "Certification" which generically states that a translation relating to an "attached" document "relating to" a declaration is accurate. It is unclear whether this statement refers to the declaration filed on 30 January 2007, because it is a dual-language declaration, not separate English and French documents. Moreover, the "Certification" is dated 02 June 2005, substantially prior to the date of the declaration in question, which again casts doubt on whether the "Certification" is directed toward this Declaration. Applicants are required to provide an acceptable statement under 37 CFR 1.69(b).

DECISION

The declaration is **NOT ACCEPTED**, without prejudice, as described above.

Applicants are required to file an oath or declaration compliant with 37 CFR 1.497(a) and (b) (or the statement required under 37 CFR 1.69(b)) within **EITHER (1) ONE (1) MONTH** of the mailing date of this Decision (**NOT** extendable under 37 CFR 1.136(a)) **OR (2)** The remaining period for response to the Decision mailed on 31 August 2010 (as extended under 37 CFR 1.136(a)), whichever expires later. Failure to timely reply will result in **ABANDONMENT**. This period for response is analogous to that which would be set by a Notification of Defective Response (Form PCT/DO/EO/916).

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT

Appln. No.: 11/629,196

Page 2

Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283



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1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

JUN 16 2011

In re Application of	:	PCT LEGAL ADMINISTRATION
Cavezza et al.	:	
Application No.: 11/629,196	:	
PCT No.: PCT/EP2005/006333	:	
Int. Filing Date: 16 May 2005	:	DECISION
Priority Date: 15 June 2004	:	
Attorney Docket No.: 299037US0PCT	:	
For: Cosmetic Use Of Piperidine Derivatives	:	

2011. This is in response to the renewed "Request To Correct Filing Date," filed on 06 January

DISCUSSION

In a Decision mailed on 10 December 2010, applicants were advised that

...petitioner has provided a "Certification" which generically states that a translation relating to an "attached" document "relating to" a declaration is accurate. It is unclear whether this statement refers to the declaration filed on 30 January 2007, because it is a dual-language declaration, not separate English and French documents. Moreover, the "Certification" is dated 02 June 2005, substantially prior to the date of the declaration in question, which again casts doubt on whether the "Certification" is directed toward this Declaration. Applicants are required to provide an acceptable statement under 37 CFR 1.69(b).

In response, counsel has now stated with sufficient clarity that "the attached Certification statement is in reference to and verifies the accuracy of the translation of the attached declaration." This Certification is being accepted in satisfaction of 37 CFR 1.69(b). Accordingly, it now would be appropriate to accept the declaration filed on 30 January 2007 for purposes of compliance with 37 CFR 1.497(a) and (b).

DECISION

The declaration is **ACCEPTED**, as described above.

Applicants' request is **GRANTED**.

This application is being returned to the Office of Patent Application Processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) has been corrected to **30 January 2007**.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283



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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/629,207	12/12/2006	Darren William Ansell	038665.58520US	3014

23911	7590	02/17/2012
CROWELL & MORING LLP		
INTELLECTUAL PROPERTY GROUP		
P.O. BOX 14300		
WASHINGTON, DC 20044-4300		

EXAMINER	
PECHE, JORGE O	

ART UNIT	PAPER NUMBER
3664	

NOTIFICATION DATE	DELIVERY MODE
02/17/2012	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

edocket@crowell.com
tche@crowell.com
maellyn1@aol.com



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FEB 1 2012

CROWELL & MORING LLP
Intellectual Property Group
PO Box 14300
Washington, DC 20044-4300

In re Application of:
 ANSELL et al. : **Petition to Request**
Appl. No. 11/629,207 : **Withdrawal of Finality**
Filed: December 12, 2006 : **UNDER 37 CFR §1.181**
For: COLLISION AVOIDANCE SYSTEM

This is a decision on Applicant's Petition under 37 CFR §1.181 filed on November 15, 2011 requesting withdrawal of the finality of the Office action mailed November 8, 2011.

The Petition is **GRANTED**.

The record reflects that on April 27, 2011 a non-final Office action was mailed. On August 23, 2011 applicant filed an amendment amending claims 2, 3, and 11. On November 8, 2011 a final Office action was mailed rejecting claim 11 under 35 USC 112, first and second paragraphs. Claims 2, 3, and 11 were also rejected under 35 USC 102(b). Petitioner argues that the amendment to the claims does not necessitate a new ground of rejection; namely the newly introduced 35 USC 112, first paragraph rejection of the recitations "means for predicting a projected path" and "means for assigning a protection region" contained in amended claim 11.

MPEP 706.07(a) sets forth that a "second or any subsequent action on the merits shall be final except where the examiner introduces a new ground of rejection that is neither necessitated by applicants' amendment of the claims, nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p)."

Petitioner argues that the only amendments made to the recitations of "means for predicting a projected path" and "means for assigning a protection region" of claim 11 was the deletion of the dash at the beginning of each recitation. As these amendments are formal in nature, they could not have necessitated the new grounds of rejection of claim 11. Thus, the finality of the office action is improper.

Accordingly, the **finality** of the office action of November 8, 2011, but not the action itself, is hereby withdrawn. The Office action is now considered to be non-final, and

Applicant's shortened statutory time period for reply continues to run from the mailing date of the November 8, 2011.

SUMMARY: The Petition **GRANTED**.

Any questions regarding this decision should be directed to Khoi Tran at 571-272-6919.



Katherine Matecki, Director
Technology Center 3600
571-272-5250

KT: 1/30/2012





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P O BOX 2000
RAHWAY NJ 07065-0907

MAILED

MAR 23 2011

OFFICE OF PETITIONS

In re Patent No. 7,714,021
Issue Date: May 11, 2010
Application No. 11/629,209
Filed: December 8, 2006
Attorney Docket No. 21663YP

DECISION ON PETITION

This is a decision on the Request Correction Of Error On Issued Patent, filed August 24, 2010, which is being treated as a Petition Under 37 CFR §3.81(b), to identify the correct assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was previously submitted.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner requests that the present Petition was submitted to correct the assignee's name on the previously submitted PTOL 85B and such error was inadvertent. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct the assignee's name identified thereon from:

"Merck & Co., Inc., Rahway, NJ (US)"

to:

--Merck Sharpe & Dohme Corp., Rahway, NJ (US)--

37 CFR 3.81(b), effective June 25, 2004, reads:

After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.


The requisite \$100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), has been submitted. However, the requisite \$130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i). A review of the application record confirms that a general authorization to charge a deposit account was present. As such, the fee is being charged as authorized. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR §3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form PTO/SB/44 previously submitted.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,714,021.


Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

cc: Merck Patent Department, K-6-1, 1990
2000 Galloping Hill Road
Kenilworth, New Jersey 07033-0530



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RUE M. DORMOY, BP 7525
PAU F-640-75 FR FRANCE

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MAY 04 2011

OFFICE OF PETITIONS

In re Patent No. 7,792,341
Issued: September 7, 2010
Application No. 11/629,270
Filed: December 12, 2006
Attorney Docket No. 505808

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ON PETITION

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed March 17, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Further, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Gordon M. Wright
Reinhart Boerner Van Deuren P.C.
2215 Perrygreen Way
Rockford, Illinois 61107



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MARTIN D. MOYNIHAN D/B/A PRTSI, INC.
P.O. BOX 16446
ARLINGTON VA 22215

MAILED

DEC 30 2010

OFFICE OF PETITIONS

In re Patent No. 7,812,218
Issue Date: October 12, 2010
Application No. 11/629,411
Filed: December 13, 2006
Attorney Docket No. 32783

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NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions



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Husch Blackwell Sanders LLP Welsh & Katz
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22ND FLOOR
CHICAGO IL 60606

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SEP 26 2011

OFFICE OF PETITIONS

In re Application of : DECISION ON APPLICATION
Shien-Orr et al. : FOR
Application No. 11/629,435 : PATENT TERM ADJUSTMENT
Filed: February 21, 2007 :
Attorney Docket No. 7251/96028:

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(b) filed September 7, 2011.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED to the extent indicated herein.**

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is SIX HUNDRED SEVENTEEN (617) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On August 3, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 554 days. On September 7, 2011, applicants timely¹

¹ The Issue Fee payment was also received on September 7, 2011.

submitted an application for patent term adjustment (with required fee). First, applicants request to treat either 125 days from the notice of appeal until the notice of allowability or 159 days from the notice of appeal until the notice of allowance as delay under 37 CFR 1.702(b)(over 3 year pendency delay) or as delay under 37 CFR 1.702(e)(delay for successful appellate review). Second, applicants dispute the reduction of 63 days associated with the filing of an information disclosure statement after the filing of an appeal brief.

Applicants state that this patent is not subject to a terminal disclaimer.

Applicants' bases for correction of the patent term adjustment have been considered and found persuasive to an extent. Under the current treatment of applicant delays after the filing of a notice of appeal, the filing of an information disclosure statement (IDS) after the filing of an appeal brief such as in this instance is not a circumstance that constitutes a failure to engage within the meaning of 37 CFR 1.704(c)(8). Accordingly, entry of the period of reduction of 63 days was not warranted and is being removed.

At the same time, the time period from the filing of a notice of appeal to a notice of allowability or notice of allowance is not considered a period of successful appellate review under the Office's current interpretation of the statute. Applicants' argument that "appellate review" should be interpreted the same way under 154(b)(1)(B)(ii) and under 154(b)(1)(C)(iii) is acknowledged. However, as to this argument, it is stated that the Office does not treat the filing of a notice of appeal followed by the issuance of a notice of allowance as successful appellate review within the meaning of 37 CFR 1.702(e).

However, it is noted that the Office issued a Notice of proposed rulemaking entitled *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements*, 76 FR 18990 (April 6, 2011). To the extent that the final rule on *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review* revises the interpretation of appellate review applied in this decision, Patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be given under 37 CFR 1.136(a).


Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Given the removal of the 63 days of applicant delay, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is SIX HUNDRED SEVENTEEN (617) days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the application. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent.

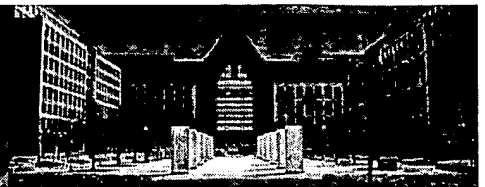
Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions



Patent Term Adjustments



PTA/PTE Information Patent Term Adjustment Patent Term Extension

Application Number*: 11629435

[Search](#)

[Explanation of PTA Calculation](#)

[Explanation of PTE Calculation](#)

PTA Calculations for Application: 11629435

Application Filing Date	02/21/2007	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	710
A Delays	710	PTO Manual Adjustment	63
B Delays	0	Applicant Delay (APPL)	156
C Delays	0	Total PTA (days)	617

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
96	09/24/2011		P028	Adjustment of PTA Calculation by PTO	63	0	
89	08/03/2011	02/25/2011	MN/=	Mail Notice of Allowance		57	
88	08/01/2011		IREV	Issue Revision Completed		0	
71	07/09/2011		ACRE	Allowed Case Returned to the Examiner for Clerical Processing		0	
68	07/05/2011		DVER	Document Verification		0	
67	07/05/2011		N/=	Notice of Allowance Data Verification Completed		0	
87	06/30/2011		OAR	Office Action Review		0	
86	06/30/2011		OAR	Office Action Review		0	
85	06/30/2011		OAR	Office Action Review		0	
84	06/30/2011		OAR	Office Action Review		0	
81	06/30/2011		OAR	Office Action Review		0	
80	06/30/2011		OAR	Office Action Review		0	
79	06/30/2011		OAR	Office Action Review		0	
78	06/30/2011		OAR	Office Action Review		0	
77	06/30/2011		OAR	Office Action Review		0	
76	06/30/2011		OAR	Office Action Review		0	
75	06/30/2011		OAR	Office Action Review		0	
74	06/30/2011		OAR	Office Action Review		0	
66	06/30/2011		EX.R	Reasons for Allowance		0	
65	06/30/2011		EX.A	Examiner's Amendment Communication		0	
64	06/30/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)		0	
63	06/30/2011		CNTA	Allowability Notice		0	
83	06/23/2011	04/21/2011	M844	Information Disclosure Statement (IDS) Filed	63	59	
70	06/23/2011		M844	Information Disclosure Statement (IDS) Filed		0	
62	06/23/2011		IDSC	Information Disclosure Statement considered		0	
61	06/23/2011		WIDS	Information Disclosure Statement (IDS) Filed		0	
60	05/05/2011		FWDX	Date Forwarded to Examiner		0	
58	05/05/2011		APBR	Appeal Brief Review Complete		0	
59	04/21/2011		AP.B	Appeal Brief Filed		0	
57	02/25/2011	01/26/2011	N/AP	Notice of Appeal Filed	30	46	
56	02/25/2011		XT/G	Request for Extension of Time - Granted		0	
55	02/02/2011		MCTAV	Mail Advisory Action (PTOL - 303)		0	
54	01/31/2011		CTAV	Advisory Action (PTOL-303)		0	
50	01/16/2011		FWDX	Date Forwarded to Examiner		0	
49	01/13/2011		A.NE	Amendment after Final Rejection		0	
51	12/17/2010		IDSC	Information Disclosure Statement considered		0	
48	12/17/2010		M844	Information Disclosure Statement (IDS) Filed		0	
47	12/17/2010		WIDS	Information Disclosure Statement (IDS) Filed		0	
46	10/26/2010		MCTFR	Mail Final Rejection (PTOL - 326)		0	
45	10/25/2010		CTFR	Final Rejection		0	
42	09/02/2010		IDSC	Information Disclosure Statement considered		0	
41	09/02/2010	07/26/2010	M844	Information Disclosure Statement (IDS) Filed	38	38	
40	09/02/2010		WIDS	Information Disclosure Statement (IDS) Filed		0	
39	08/05/2010		FWDX	Date Forwarded to Examiner		0	
38	07/26/2010	07/01/2010	A...	Response after Non-Final Action	25	33	
37	07/26/2010		XT/G	Request for Extension of Time - Granted		0	
43	04/26/2010		IDSC	Information Disclosure Statement considered		0	
36	04/26/2010		M844	Information Disclosure Statement (IDS) Filed		0	
35	04/26/2010		WIDS	Information Disclosure Statement (IDS) Filed		0	
33	04/01/2010	04/21/2008	MCTNF	Mail Non-Final Rejection	710	7	
31	03/29/2010		CTNF	Non-Final Rejection		0	
44	03/23/2010		IDSC	Information Disclosure Statement considered		0	
34	03/23/2010		M844	Information Disclosure Statement (IDS) Filed		0	
32	03/23/2010		WIDS	Information Disclosure Statement (IDS) Filed		0	
18	12/11/2009		IDSC	Information Disclosure Statement considered		0	
17	12/11/2009		M844	Information Disclosure Statement (IDS) Filed		0	
16	12/11/2009		WIDS	Information Disclosure Statement (IDS) Filed		0	
15	12/03/2009		DOCK	Case Docketed to Examiner in GAU		0	
14	07/22/2009		DOCK	Case Docketed to Examiner in GAU		0	
13	12/27/2007		PG-ISSUE	PG-Pub Issue Notification		0	
12	11/05/2007		TSSCOMP	IFW TSS Processing by Tech Center Complete		0	
8	10/19/2007		OIPE	Application Dispatched from OIPE		0	
6	09/24/2007		PGPC	Sent to Classification Contractor		0	
5	09/24/2007		M903	Notice of DO/EO Acceptance Mailed		0	
7	02/21/2007		371COMP	371 Completion Date		0	
0.5	05/11/2005		NEFILE	International Filing date		0	



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WINSTON-SALEM NC 27101

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OFFICE OF PETITIONS

In re Application of	:	ON APPLICATION FOR
Mjalli et al.	:	PATENT TERM ADJUSTMENT
Application No. 11/629,437	:	
Filed: April 12, 2007	:	
Atty Docket No. TTP 2004-04-	:	
US-B	:	

This decision is in response to the "Petition under 37 C.F.R. §1.705(d)," Regarding Patent Term Adjustment (PTA) Indicated in Notice of Allowance," filed May 16, 2011.

Applicants submit that the correct patent term adjustment to be indicated on the patent is four hundred eight (408) days, not three hundred seventy-three (373) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction partially on the basis that the Office will take in excess of three years to issue this patent¹. In addition, applicants disclose that the Office failed to enter a reduction pursuant to 37 CFR 1.704(c)(8) for an Information Disclosure Statement (IDS), filed September 3, 2010, after a Request for Continued Examination and an IDS were filed on July 23, 2010.

¹ Applicants reference February 3, 2007 as the date upon which the 37 CFR 1.702(b) calculation is to be made. See p.3, petition. Applicants are informed that the over three year delay will, in this instance, be calculated based on the application's commencement date, which is February 5, 2007. See 35 U.S.C. 371(b). As the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on a Saturday, the period expired on the subsequent business day. See PCT Rule 80.5. Accordingly, the commencement date is Monday, February 5, 2007.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE.**

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent or even the filing date of the RCE is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice

of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee².

To the extent that applicants otherwise request correction of the initial determination of patent term adjustment (PTA), the application for patent term adjustment is **GRANTED to the extent indicated herein.**

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **one hundred thirty-eight (138)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 14, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 373 days.

Applicants disclose that the Office failed to enter a reduction for an Information Disclosure Statement (IDS), filed September 3, 2010, after a Request for Continued Examination and an IDS were filed on July 23, 2010.

Applicants are correct that the Office failed to enter a reduction for the Information Disclosure Statement (IDS), filed September 3, 2010. However, the reduction falls under 37 CFR 1.704(c)(10) rather than 37 CFR 1.704(c)(8). A review of PTA for the application reveals other reductions under 37 CFR 1.704(c)(10) were missed, also.

² For example, if an applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the 37 CFR 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Specifically, a reduction of 235 days should have been entered based on 37 CFR 1.704(c)(10). 37 CFR 1.704(c) provides that:

Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;

or

(ii) Four months;

On April 29, 2010, the Office mailed a Notice of Allowance. On June 21, 2010, applicants paid the issue fee. The date of payment of the issue fee set the calculation of the period of reduction pursuant to 37 CFR 1.704(b), if any, for Applicant delay. In this instance, it is undisputed that 1) a Request for Continued Examination (RCE), 2) an Information Disclosure Statement (IDS), and 3) a Petition to Withdraw from Issue were filed on July 23, 2010. A second IDS was filed on September 3, 2010.

The petition to withdraw from issue, filed July 23, 2010, was granted by decision mailed on July 26, 2010 (a 4 day reduction). The RCE and IDS, filed July 23, 2010, were not addressed until the Office mailed a second Notice of Allowance on March 14, 2011 (a 235 day reduction). The second IDS, filed September 3, 2010, was not addressed until the Office mailed a second Notice of Allowance on March 14, 2011 (a 193 day reduction). Since the 4 day reduction period for the petition to withdraw from issue and the 193 day reduction period for the September 3, 2010 IDS overlaps with the 235 day reduction period for the submission of

the July 23, 2010 RCE and IDS, a total period of 235 days for Applicant delay is being entered.

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance mailed March 14, 2011 is **one hundred thirty-eight (138)** days (475 days of Office delay minus 337 (14 + 88 + 235) days of Applicant delay).


The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.


Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen



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11/629,437

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Select New/Case	Application Data	Transaction History	Image/File Wrapper	Patent Term Adjustments	Continuity Data	Published Documents	Address & Attorney/Agent	Supplemental Content
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Patent Term Adjustment

Filing or 371(c) Date:	04-12-2007	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	475
A Delays:	475	PTO Manual Adjustments:	-235
B Delays:	0	Applicant Delays:	102
C Delays:	0	Total PTA Adjustments:	138

Patent Term Adjustment History

Explanation Of Calculations

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
140	06-02-2011	Adjustment of PTA Calculation by PTO		235	0
132	03-14-2011	Mail Notice of Allowance	111		116
131	03-11-2011	Issue Revision Completed			0
130	03-11-2011	Document Verification			0
128	03-02-2011	Allowed Case Returned to the Examiner for Clerical Processing			0
127	03-02-2011	Notice of Allowance Data Verification Completed			0
126	03-02-2011	Examiner's Amendment Communication			0
125	02-23-2011	Allowability Notice			0
124	07-23-2010	Information Disclosure Statement considered			0
123	09-03-2010	Information Disclosure Statement considered			0
120	09-03-2010	Reference capture on IDS			0
119	09-03-2010	Information Disclosure Statement (IDS) Filed			0
118	09-03-2010	Information Disclosure Statement (IDS) Filed			0
117	07-23-2010	Information Disclosure Statement (IDS) Filed			0
116	07-23-2010	Request for Continued Examination (RCE)			0
115	08-03-2010	Disposal for a RCE / CPA / R129			0
114	07-26-2010	Mail-Record Petition Decision of Granted to Withdraw from Issue			0
113	07-26-2010	Record Petition Decision of Granted to Withdraw from Issue			0
112	07-23-2010	Petition Entered			0
111	07-23-2010	Information Disclosure Statement (IDS) Filed			0
110	07-23-2010	Workflow - Request for RCE - Begin			0
109	07-14-2010	Mail-Petition Decision - Dismissed			0
108	07-14-2010	Petition Decision - Dismissed			0

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107	06-21-2010	Response to Reasons for Allowance	0
106	06-21-2010	Petition Entered	0
105	06-25-2010	Application Is Considered Ready for Issue	0
104	06-21-2010	Issue Fee Payment Verified	0
103	06-21-2010	Issue Fee Payment Received	0
101	05-19-2010	Sequence Forwarded to Pubs on Tape	0
100	05-03-2010	Export to Initial Data Capture	0
99	05-03-2010	Finished Initial Data Capture	0
98	04-29-2010	Mail Notice of Allowance	0
97	04-28-2010	Issue Revision Completed	0
96	04-28-2010	Document Verification	0
95	04-28-2010	Notice of Allowance Data Verification Completed	0
94	04-28-2010	Case Docketed to Examiner in GAU	0
93	04-26-2010	Allowability Notice	0
92	04-22-2010	Information Disclosure Statement considered	0
91	04-22-2010	Reference capture on IDS	0
90	04-22-2010	Information Disclosure Statement (IDS) Filed	0
89	04-22-2010	Request for Continued Examination (RCE)	0
88	04-24-2010	Disposal for a RCE / CPA / R129	0
87	04-22-2010	Information Disclosure Statement (IDS) Filed	0
86	04-22-2010	Workflow - Request for RCE - Begin	0
85	03-16-2010	Workflow - Query Request - Finish	0
84	03-15-2010	Printer Rush- No mailing	0
83	12-22-2009	Information Disclosure Statement considered	0
82	02-23-2010	Pubs Case Remand to TC	0
81	03-01-2010	Workflow - Query Request - Begin	0
80	02-22-2010	Sequence Forwarded to Pubs on Tape	0
79	02-02-2010	Export to Initial Data Capture	0
78	01-25-2010	Mail Examiner's Amendment	0
77	01-25-2010	Mail Notice of Allowance	0
76	12-22-2009	Information Disclosure Statement (IDS) Filed	88 45
75	10-23-2009	Information Disclosure Statement (IDS) Filed	0
74	12-30-2009	Document Verification	0
73	12-30-2009	Notice of Allowance Data Verification Completed	0

72	12-30-2009	Case Docketed to Examiner in GAU		0
71	12-22-2009	Information Disclosure Statement (IDS) Filed		0
70	12-22-2009	Examiner's Amendment Communication		0
69	12-21-2009	Examiner Interview Summary Record (PTOL - 413)		0
68	12-22-2009	Allowability Notice		0
58	10-23-2009	Information Disclosure Statement considered		0
57	09-25-2009	Information Disclosure Statement considered		0
56	03-20-2009	Information Disclosure Statement considered		0
55	03-20-2009	Information Disclosure Statement considered		0
54	03-06-2009	Information Disclosure Statement considered		0
53	04-02-2008	Information Disclosure Statement considered		0
52	10-24-2007	Information Disclosure Statement considered		0
51	10-22-2007	Information Disclosure Statement considered		0
50	10-22-2007	Information Disclosure Statement considered		0
49	10-23-2009	Information Disclosure Statement (IDS) Filed		0
48	09-25-2009	Reference capture on IDS		0
47	09-25-2009	Information Disclosure Statement (IDS) Filed		0
46	10-08-2009	Date Forwarded to Examiner		0
45	09-25-2009	Response to Election / Restriction Filed	14	38
44	09-25-2009	Request for Extension of Time - Granted		0
43	09-25-2009	Information Disclosure Statement (IDS) Filed		0
42	03-06-2009	Reference capture on IDS		0
41	03-06-2009	Information Disclosure Statement (IDS) Filed		0
40	07-10-2009	Mail Examiner Interview Summary (PTOL - 413)		0
39	07-02-2009	Examiner Interview Summary Record (PTOL - 413)		0
38	06-11-2009	Mail Restriction Requirement	364	-1
37	06-10-2009	Restriction/Election Requirement		0
33	03-20-2009	Reference capture on IDS		0
32	03-20-2009	Information Disclosure Statement (IDS) Filed		0
31	03-24-2009	Substitute Specification Filed		0
30	04-16-2009	CRF Is Good Technically / Entered into Database		0
29	03-20-2009	Information Disclosure Statement (IDS) Filed		0
28	03-20-2009	Information Disclosure Statement (IDS) Filed		0
27	03-06-2009	Information Disclosure Statement (IDS) Filed		0

26	07-21-2008	Case Docketed to Examiner in GAU	0
25	07-09-2008	Case Docketed to Examiner in GAU	0
24	04-01-2008	Information Disclosure Statement (IDS) Filed	0
22	04-02-2008	Information Disclosure Statement (IDS) Filed	0
21	03-27-2008	PG-Pub Issue Notification	0
20	03-20-2008	Case Docketed to Examiner in GAU	0
19	02-08-2008	IFW TSS Processing by Tech Center Complete	0
18	10-24-2007	Information Disclosure Statement (IDS) Filed	0
17	10-22-2007	Information Disclosure Statement (IDS) Filed	0
16	10-22-2007	Reference capture on IDS	0
15	10-22-2007	Information Disclosure Statement (IDS) Filed	0
13	12-31-2007	Application Dispatched from OIPE	0
12	12-20-2007	Sent to Classification Contractor	0
11	12-20-2007	Filing Receipt	0
10	12-20-2007	Notice of DO/EO Acceptance Mailed	0
9	10-24-2007	Information Disclosure Statement (IDS) Filed	0
8	10-22-2007	Information Disclosure Statement (IDS) Filed	0
7	10-22-2007	Information Disclosure Statement (IDS) Filed	0
0.5	08-03-2005	International Filing date	0

If you need help:

- Call the Patent Electronic Business Center at (866) 217-9197 (toll free) or e-mail EBC@uspto.gov for specific questions about Patent Application Information Retrieval (PAIR).
- Send general questions about USPTO programs to the [USPTO Contact Center \(UCC\)](#).
- If you experience technical difficulties or problems with this application, please report them via e-mail to [Electronic Business Support](#) or call 1 800-786-9199.

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KILPATRICK TOWNSEND &
STOCKTON LLP - 41305
CHARLES CALKINS
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

MAILED
SEP 06 2011
OFFICE OF PETITIONS

In re Patent of Mjalli et al. : DECISION ON
Patent No. 7,981,423 : REQUEST FOR RECONSIDERATION
Issued: July 19, 2011 : OF
Application No. 11/629,437 : PATENT TERM ADJUSTMENT
Filed: April 12, 2007 : and
Docket No. TTP 2004-04-US-B : NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is in response to the petition under 37 CFR 1.705(d), filed August 30, 2011. Patentees request that the patent term adjustment indicated on the patent be corrected from two hundred thirteen (213) days to two hundred eighty-four (284) days.

The request for reconsideration of patent term adjustment is **GRANTED to the extent indicated herein.**

On July 19, 2011, the above-identified application matured into U.S. Patent No. 7,981,423. The instant request for reconsideration filed August 30, 2011 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 213 days.

Patentees dispute the cumulative period of reduction of 235 days under 37 CFR 1.704(c)(10) in connection with the filing of 1) a Request for Continued Examination (RCE,) 2) an Information Disclosure Statement (IDS), and 3) a Petition to Withdraw from Issue all on July 23, 2010 and (4) a second IDS on September 3, 2010. The 235 day period of reduction was explained in the June 2, 2001 decision on applicants' petition under 37 CFR 1.705(b), which was filed on May 15, 2011. Patentees assert a 164 day cumulative period of reduction should have been entered.

Patentees are correct that the Office miscalculated the cumulative period of reduction under 37 CFR 1.704(c)(10).

However, the cumulative period of reduction should be 161 days, not 164 days.

37 CFR 1.704(c) provides that:

Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;

or

(ii) Four months;

On April 29, 2010, the Office mailed a Notice of Allowance. On June 21, 2010, applicants paid the issue fee. Applicants filed 1) a Request for Continued Examination (RCE,) 2) an Information Disclosure Statement (IDS), and 3) a Petition to Withdraw from Issue on July 23, 2010. A second IDS was filed on September 3, 2010.

The petition to withdraw from issue, filed July 23, 2010, was granted by decision mailed on July 26, 2010, which amounts to a 4 day reduction.

The RCE and IDS, filed July 23, 2010, were not addressed until the Office mailed a second Notice of Allowance on March 14, 2011. However, as patentees note, the length of reduction is capped at 4 months, which the Office interprets as 120 days. The calculation begins on July 23, 2010, the date the RCE and IDS were filed, and ends 120 days later, on November 20, 2010.

The second IDS, filed September 3, 2010, was not addressed until the Office mailed a second Notice of Allowance on March 14,

2011. However, as patentees note, the length of reduction is capped at 4 months/120 days. The calculation begins on September 3, 2010, the date the IDS was filed, and ends 120 days later, on January 1, 2011.

These periods of delay overlap as follows: four (4) days from July 23, 2010 to July 26, 2010 and seventy-nine (79) days from September 3, 2010 to November 20, 2010.

Total applicant delay is 263 (14 + 88 + 4 + 120 + 120 - 4 overlap - 79 overlap) days.

In light thereof, the correct patent term adjustment is 287 days, which is 475 days of delay under 35 U.S.C. 154(b)(1)(A) + 75 days of delay under 35 U.S.C. 154(b)(1)(B) - 263 days of Applicant delay.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Deposit account no. 11-0855 will be charged the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Certificate of Correction Branch has been advised of this decision. The application is, thereby, forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **TWO HUNDRED EIGHTY-SEVEN (287) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,981,423 B2

DATED : July 19, 2011

DRAFT

INVENTOR(S) : Mjalli et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 213 days

Delete the phrase "by 213 days" and insert – by 287 days--

**CERTIFICATION AND REQUEST
FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN** (Page 1 of 2)

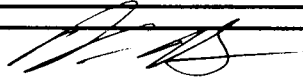
Nonprovisional Application Number or Control Number (if applicable): 11/629,486	Patent Number (if applicable):
First Named Inventor: Takatoshi Murase	Title of Invention: AMPK ACTIVATOR

**APPLICANT/PATENTEE/REEXAMINATION PARTY HEREBY CERTIFIES AND REQUESTS THE
FOLLOWING FOR THE ABOVE-IDENTIFIED APPLICATION/PATENT/REEXAMINATION PROCEEDING.**

1. FOR PATENT APPLICATIONS AND REEXAMINATION PROCEEDINGS PENDING IN THE USPTO AS OF MARCH 11, 2011, IN WHICH A COMMUNICATION FROM THE USPTO IS SOUGHT TO BE REMAILED:
 - a. One or more inventors, an assignee, or a correspondence address (for the application/proceeding) is in an area of Japan affected by the earthquake and/or tsunami of March 11, 2011.
 - b. A reply or response to an Office action (final, non-final, or other), a notice of allowance, or other Office notice (hereinafter collectively referred to as "Office communication") is outstanding on March 11, 2011.
 - c. The statutory or non-statutory time period set for response has not yet expired.
 - d. Withdrawal and reissuance of the Office communication is requested.
 - e. It is acknowledged that if this request is not made within sufficient time so that withdrawal and reissuance of the Office communication occur prior to expiration of the statutory or non-statutory time period (as permitted to be extended under 37 CFR 1.136(a), or as extended under 37 CFR 1.550(c) or 1.956), this request may not be granted.
 - f. The need for the reissuance of the Office communication was due to the effects of the earthquake and/or tsunami of March 11, 2011.
 - g. This request is being sent via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
2. FOR PATENTEES WHO WERE UNABLE TO TIMELY PAY A PATENT MAINTENANCE FEE DURING THE SIX-MONTH GRACE PERIOD FOLLOWING THE WINDOW TO PAY THE MAINTENANCE FEE:
 - a. The original window of time to pay the maintenance fee without the surcharge required by 37 CFR 1.20(h) expired on or after March 11, 2011.
 - b. The delay in paying the fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
 - c. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(h) for paying a maintenance fee during the six-month grace period following the window to pay the maintenance fee.
 - d. This request and payment of the maintenance fee during the six-month grace period following the window to pay the maintenance fee is being mailed to: Director of the United States Patent and Trademark Office, Attn: Maintenance Fee, 2051 Jamieson Avenue, Suite 300, Alexandria, VA 22314; or being transmitted via facsimile to: 571-273-6500.

**CERTIFICATION AND REQUEST
FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN** (Page 2 of 2)

3. FOR PATENTEES WHO NEED TO FILE A PETITION TO ACCEPT A DELAYED MAINTENANCE FEE PAYMENT UNDER 37 CFR 1.378(c):
- The maintenance fee payment was required to have been paid after March 10, 2011.
 - A petition under 37 CFR 1.378(c) (using USPTO form PTO/SB/66 – Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c))) is being promptly filed accompanied by the applicable maintenance fee payment (but not the surcharge under 37 CFR 1.20(i)).
 - The delay in payment of the maintenance fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
 - The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(i) for accepting a delayed maintenance fee payment.
 - It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed by March 11, 2012, in order to be entitled to a waiver of the surcharge under 37 CFR 1.20(i).
 - It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed within twenty-four months from the expiration date of the patent. See 35 U.S.C 41(c).
 - This request and the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) is being submitted via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
4. FOR NONPROVISIONAL PATENT APPLICATIONS FILED WITHOUT AN EXECUTED OATH OR DECLARATION OR PAYMENT OF THE BASIC FILING FEE, SEARCH FEE, AND/OR EXAMINATION FEE:
- The nonprovisional patent application was filed on or after March 11, 2011, and prior to April 12, 2011.
 - The late filing of the oath or declaration or the basic filing fee, search fee, or examination fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
 - The USPTO is requested to *sua sponte* waive the surcharge set forth in 37 CFR 1.16(f) for the late filing of the oath or declaration or basic filing fee, search fee, and/or examination fee.
 - This request, together with the executed oath or declaration or the basic filing fee, search fee, or examination fee, as well as the reply to the Notice to File Missing Parts, is being submitted via EFS-Web or by mail directed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature 	Date <u>4/26/11</u>
Name (Print/Typed) Vincent K. Shier, Ph.D.	Practitioner Registration Number 50,552
<p>Note: Signatures of all the inventors, § 1.41(b) applicants, or assignees of record of the entire interest or their representative(s), or reexamination requesters at the appeal stage are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.</p>	
<input checked="checked" type="checkbox"/> *Total of <u>1</u> forms are submitted.	



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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

APR 28 2011

OFFICE OF PETITIONS

In re Application of
Takatoshi Murase
Application No. 11/629,486
Filed: December 14, 2006
Attorney Docket No.: 299683USOPCT

DECISION ON PETITION

This is a decision on the request filed April 26, 2011, seeking relief under the provisions of "Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners Affected by the Catastrophic Events of March 11, 2011 in Japan," 1365 Off. Gaz. Pat. Office 170 (April 19, 2011).

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on October 28, 2011. The instant petition was filed prior to the expiration of the period for reply and the certifications for granting of relief are considered to be met by the submission of the request.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4914. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This application is being referred to the Technology Center, Art Unit 1627 for re-mailing the Office action of October 28, 2010. The period for reply will run from the mailing date of the Office action.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions



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United States Patent and Trademark Office
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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED
MAY 09 2011
OFFICE OF PETITIONS

In re Application of	:	
Bail et al.	:	
Application No. 11/629,522	:	
Filed: June 2, 2008	:	
Attorney Docket No. 09605.0025	:	ON APPLICATION FOR
Title: PYRIDAZIN-3(2H)-ONE	:	PATENT TERM ADJUSTMENT
DERIVATIVES AND THEIR USE AS	:	
PDE4 INHIBITORS	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT-PRE-GRANT," filed March 4, 2011. This request is properly treated under 37 CFR 1.705(b). Applicants dispute the thirty-two (32) day adjustment.

The application for patent term adjustment is **DISMISSED**.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

On December 6, 2010, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicant was advised that the patent term adjustment to date is 2 days. In response, applicants timely filed the instant request for reconsideration of the patent term adjustment.

Applicants contend that the non-final Office action mailed on September 3, 2009 was deficient and did not meet the requirements of 37 CFR 1.702(a)(1). Applicants maintain that the supplemental Office action of December 30, 2009, constituted a proper action under 35 U.S.C. §132 as required by 37 CFR §1.703(a)(1). Thus an adjustment of 150 days is required.

Applicants' argument has been considered but is not persuasive. A review of the record shows that the 32 day adjustment was required for failure by the Office to mail at least one of the notifications under 35 U.S.C. 132 not later than fourteen months after the date the application was filed under 35 USC 1.111(a), pursuant to 37 CFR §1.702(a)(1).

The mailing of the Office action on September 3, 2009, met the requirements of 37 CFR §1.702(a)(1). The subsequent mailing of the supplemental Office action by the examiner does not negate the fact that the Office took action in this application within the meaning of § 1.702(a)(1) on September 3, 2009. The examiner does not have the authority to vacate, rescind, or withdraw an Office action. Unless vacated by the Technology Center Director, for purposes of calculating patent term adjustment, the action originally mailed by the examiner on September 3, 2009 will be used to calculate the amount of Office delay.

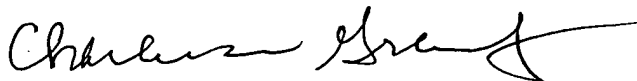
Applicant's delay prior to the mailing of the Notice of Allowance is 30 days. Office delay prior to the mailing of the Notice of Allowance is 32 days.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is 2 days.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3215.



Charlema Grant
Attorney
Office of Petitions

Enter
/CAM/
12/09/2011

S/N 11/629581

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Teruhisa Sako	Examiner:	Martinez, Carlos
Serial No.:	11/629581	Group Art Unit:	2853
Filed:	December 14, 2006	Docket No.:	10921.0455USWO
Title:	THERMAL HEAD WITH PROTECTIVE LAYER		

CERTIFICATE OF TRANSMISSION.

I hereby certify that this paper is being transmitted by EFS Web to the United States Patent & Trademark Office on November 8, 2011.

By: Tammy McCanna
Name: Tammy McCanna

REQUEST FOR CERTIFICATE OF CORRECTION

Mail Stop: Certificate of Correction
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

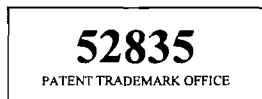
Dear Sir:

It is requested that a Certificate of Correction be issued correcting printing errors appearing in the above-identified United States patent. A copy of the text of the Certificate in the suggested form is attached. The claim for priority was acknowledged in the Notice of Allowability dated June 8, 2011.

Issuance of the Certificate of Correction would neither expand nor contract the scope of the claims, and re-examination is not required.

As none of the errors are the Patentees' mistake, it is believed that no fee is due.

Respectfully submitted,



HAMRE, SCHUMANN, MUELLER &
LARSON, P.C.
P.O. Box 2902
Minneapolis, MN 55402-0902
(612) 455-3800

Dated: 10/4/11

By: Douglas P. Mueller

Douglas P. Mueller
Reg. No. 30,300
DPM/tjm

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20111209

DATE : December 09, 2011

TO SPE OF : ART UNIT 2853

SUBJECT : Request for Certificate of Correction on Patent No.: 8,009,185

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Certificates of Correction Branch - ST (South Tower) 9A22

Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments:

/Stephen D Meier/
Supervisory Patent Examiner, Art Unit 2853



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RAHWAY NJ 07065-0907

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NOV 16 2010

OFFICE OF PETITIONS

In re Application of	:	
KAWAMOTO et al.	:	DECISION ON APPLICATION
Application No. 11/629,730	:	FOR
Filed: December 15, 2006	:	PATENT TERM ADJUSTMENT
Attorney Docket No. BY0156P	:	

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) filed October 19, 2010. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from 588 days to 606 days.

The application for patent term adjustment is GRANTED.

The Office has updated the PAIR and PALM screens to reflect that the corrected Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is 606 days. A copy of the updated PAIR screen, showing the corrected determination, is enclosed.

On July 20, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) was 588 days. On October 19, 2010, applicants timely submitted the present application for patent term adjustment¹.

Applicants dispute the reduction of 18 days for filing of a supplemental Amendment on July 9, 2010, after a reply had been filed. See 37 CFR 1.704(c)(8)². Applicants contend that they

¹ The Office records show applicants paid the issue fee on October 19, 2010.

² 37 CFR 1.704(c)(8) states:

submitted the amendment at the request of the examiner. Applicants assert that amendment was submitted in response to the telephonic interview of July 7, 2010, with the examiner.

The record supports a conclusion that in connection with the interview of July 7, 2010, the supplemental reply was expressly requested by the examiner within the meaning of 37 CFR 1.704(c)(8). Accordingly, the reduction of 18 days is not warranted.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is 606 days.

The Office will charge the \$200.00 fee set forth in 37 CFR 1.18(e) to the Deposit Account as authorized. No additional fee is required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed[.]

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 11/629,730

Filing or 371(c) Date:	12-15-2006	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	608
A Delays:	608	PTO Manual Adjustments:	18
B Delays:	0	Applicant Delays:	20
C Delays:	0	Total PTA Adjustments:	606

Patent Term Adjustment History Explanation Of Calculations

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
60	11-15-2010	Adjustment of PTA Calculation by PTO	18		0
52	07-20-2010	Mail Notice of Allowance			0
51	07-19-2010	Issue Revision Completed			0
50	07-19-2010	Document Verification			0
49	07-19-2010	Notice of Allowance Data Verification Completed			0
48	07-19-2010	Examiner's Amendment Communication			0
47	07-07-2010	Examiner Interview Summary Record (PTOL - 413)			0
46	07-19-2010	Notice of Allowability			0
45	07-10-2010	Date Forwarded to Examiner			0
44	07-09-2010	Supplemental Response		18	36
39	06-21-2010	Information Disclosure Statement considered			0
38	06-21-2010	Information Disclosure Statement (IDS) Filed			0
37	06-29-2010	Date Forwarded to Examiner			0
36	06-21-2010	Response after Non-Final Action		2	33
35	06-21-2010	Reference capture on IDS			0
34	06-21-2010	Electronic Information Disclosure Statement			0
33	03-19-2010	Mail Non-Final Rejection			0
32	03-12-2010	Non-Final Rejection			0

26	01-11-2010	Date Forwarded to Examiner		0
25	11-20-2009	Response to Election / Restriction Filed		0
24	10-29-2009	Mail Restriction Requirement	608	11
23	10-26-2009	Requirement for Restriction / Election		0
21	10-20-2008	Case Docketed to Examiner in GAU		0
20	08-16-2007	PG-Pub Issue Notification		0
19	06-04-2007	Case Docketed to Examiner in GAU		0
17	05-23-2007	IFW TSS Processing by Tech Center Complete		0
12	05-15-2007	Application Dispatched from OIPE		0
11	12-30-2006	371 Completion Date		0
10	05-09-2007	Sent to Classification Contractor		0
9	05-10-2007	Notice of DO/EO Acceptance Mailed		0
3	01-05-2007	Cleared by OIPE CSR		0
2	01-05-2007	IFW Scan & PACR Auto Security Review		0

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OFFICE OF PETITIONS

FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202-5306

In re Application of Ashish Singhal et al.	:	
Application No. 11/629,762	:	On Application For
371(c) Date: July 6, 2007	:	Patent Term Adjustment
Attorney Docket No. 081445-0432	:	

This is in response to the request under 37 C.F.R. § 1.705(b) filed June 28, 2010, which asserts the correct patent term adjustment to be indicated on the patent is six hundred ninety-three (693) days, not four hundred nine (409) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE.**

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, an applicant may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the

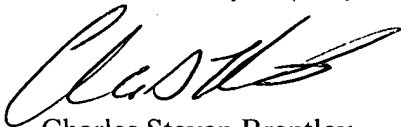
amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.¹

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

¹ For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. *See* 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.



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VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

In re Patent No. 7,873,496 :
Gajic :
Issue Date: January 18, 2011 : DECISION ON REQUEST FOR
Application No. 11/629,775 : RECONSIDERATION OF
Filed: October 20, 2008 : PATENT TERM ADJUSTMENT
Attorney Docket No. 43315- :
238826 :
Title: METHOD AND DEVICE FOR :
FAULT DETECTION IN AN N-WINDING :
THREE-PHASE POWER TRANSFORMER :

This is a decision on the petition filed on March 9, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by three hundred ninety-nine (399) days.

The petition to correct the patent term adjustment to indicate three hundred ninety-nine (399) days is **DISMISSED**.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 271 days.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 0 days. The calculation of delay pursuant to 37 CFR 1.702(b) is based on a national stage commencement date of June 9, 2008, not December 15, 2006. See 35 U.S.C. 371(b). Since the patent issued within three years from the commencement date, patentee is not entitled to additional patent term pursuant to 37 CFR 1.702(b).

In view thereof, the patent is entitled to an overall adjustment of 271 days.

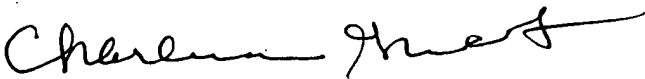
Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District

Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The address provided on the petition differs from the correspondence address of record. A courtesy copy of this decision is being mailed to the address provided on the petition. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3215.



Charlema Grant
Attorney
Office of Petitions

Cc: Venable LLP
575 Seventh Street, NW
Washington, DC 20004



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PCT LEGAL ADMINISTRATION

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Application of	:	
DEPPISCH et al.	:	
Application No.: 11/629,783	:	DECISION
PCT No.: PCT/SE05/00913	:	
Int. Filing Date: 15 June 2005	:	ON PETITION UNDER
Priority Date: 17 June 2004	:	
Attorney Docket No.: 02508.0113	:	37 CFR 1.47(a)
For: APPLICATOR AND METHOD FOR	:	
APPLYING LOCK SOLUTION IN A	:	
CATHETER	:	

This is a decision on applicants' Response to Decision on Petition under 37 CFR 1.47(a) filed in the United States Patent and Trademark Office (USPTO) on 01 February 2008. This is also responsive to applicant's request for status filed on 17 November 2008.

BACKGROUND

On 13 March 2007, a Notification of Missing Requirements was mailed indicating, *inter alia*, that a declaration in compliance with 37 CFR 1.497(a) and (b) was required.

On 21 June 2007, applicant submitted a request for change in the name of an inventor, which was treated as the petition under 37 CFR 1.182. On 11 September 2007, a decision granting the change in name of inventor Claudia Trick to Claudia Hildwein due to her marriage was granted. However, the declarations submitted on 21 June 2007 were altered, did not meet the requirements of 37 CFR 1.497(a) and (b) and were unacceptable. Applicant was advised that a newly executed declaration was required.

On 11 October 2007, applicant filed a petition under 37 CFR 1.47(a). On 15 December 2007, a decision dismissing the petition was filed.

DISCUSSION

Petitioner has now presented a renewed petition under 37 CFR 1.47(a) along with declarations signed by joint inventors Werner Beck, Bjorn Frederik Seidler, and Claudia Hildwein. A review of the declarations reveals that the declarations identify and are executed by all the inventors named in the international application. A change in inventor Trick's name to Hildwein was previously granted under 37 CFR 1.182. The declarations state the residency, citizenship and mailing address of each inventor and are without alteration. Thus, the declarations are acceptable and the requirements of 37 CFR 1.497(a) and (b).

The renewed petition under 37 CFR 1.47(a) is considered moot as declaration executed by the previously unavailable inventor has now been submitted. The declarations are acceptable under 37 CFR 1.497(a) and (b).

CONCLUSION

For the above reasons, the renewed petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**. The declarations executed by the joint inventors and submitted on 01 February 2008 are in compliance with 37 CFR 1.497(a) and (b) and are acceptable.

This application is being forwarded to United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 01 February 2008.

/Cynthia M. Kratz/
Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286
Facsimile: (571) 273-0459



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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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OFFICE OF PETITIONS

In re Application of :
Masao Fujimoto :
Application No. 11/629,866 : **DECISION ON PETITION**
Filed: December 18, 2006 :
Attorney Docket No. **1907-0245PUS1** :

This is a decision on the petition, filed June 3, 2011, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the final Office action of April 13, 2010, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on April 27, 2011.

Petitioner contends that the Notice of Abandonment was mailed in error since a timely reply (Request for Continued Examination (RCE)) was received by the Office on April 22, 2011, with a request for two (2) month extension of time. A review of the application file record indicates that petitioner had filed a Pre-Appeal Conference Request concurrently with a Notice of Appeal and a two (2) month extension of time on September 10, 2010. On January 24, 2011, the Office issued a Notice of Panel Decision from Pre-Appeal Brief Review requiring the applicant to file an Appeal Brief in accordance with 37 CFR 41.37. The decision also reset the time period for filing the Appeal Brief to one (1) month from the mailing of the decision or the balance of the two (2) month time period running from the receipt of the Notice of Appeal, whichever is greater.

Extensions of time were available under 37 CFR 1.136. Accordingly, a reply was due on or before February 24, 2011, or, on or before April 24, 2011, with a two (2) month extension of time. A review of the file record confirms the receipt of a reply (that included the RCE and amendment) with the fees for a two (2)

month extension of time, on April 22, 2011. Thus, the application is not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby **VACATED** and the holding of abandonment **WITHDRAWN**.

Telephone inquires concerning this decision should be directed to JoAnne Burke at 571-272-4584.

This application is being referred to Technology Center AU 2876 for appropriate action in the normal course of business on the reply received April 22, 2011.

/Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions



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PO BOX 50368
BELLEVUE WA 98015

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OFFICE OF PETITIONS

In re Patent No. 7,951,841	:	DECISION ON
Palczewski, et al.	:	PATENT TERM ADJUSTMENT
Issue Date: May 31, 2011	:	AND NOTICE OF INTENT
Application No. 11/629,875	:	TO ISSUE
Filed: December 18, 2006	:	CERTIFICATE OF
Attorney Docket No. 029060-000410US	:	CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT CALCULATION UNDER 35 U.S.C. § 154 and 37 CFR § 1.705(d)", filed July 28, 2011. Patentees request that the patent term adjustment indicated on the patent be corrected from six hundred ninety (690) days to seven hundred forty-seven (747) days.

The petition is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **seven hundred forty-seven (747)** days.

On May 31, 2011, the above-identified application matured into U.S. Patent No. 7,951,841. Patentees timely filed an application for patent term adjustment under 37 CFR 1.705(d) on July 28, 2011. Patentees assert that they should not have been assessed applicant delay of eighty-nine (89) days for the submission of a Rule 312 Amendment on March 4, 2011, after the Notice of Allowance was mailed on March 2, 2011. Rather, Patentees assert that they should have only been assessed applicant delay of thirty-two (32) days.

37 CFR 1.704(c)(10) states that applicant delay shall be assessed "beginning on the date the...paper was filed and ending on the mailing date of the Office action or notice in response to the...paper". Here, Applicant filed the Rule 312 Amendment on March 4, 2011, and the Office mailed a Response to Rule 312 Communication on April 4, 2011. Accordingly, Applicant should have been accorded 32 days of delay for the filing of the Rule 312 Amendment, not 89 days as reflected in PAIR.

In view thereof, the correct determination of PTA at the time of issuance is seven hundred forty-seven (747) days (1032 days of PTO delay, reduced by 32 days of applicant delay and 253 days of overlap).

Receipt of the \$200.00 fee set forth in 37 C.F.R. §1.18(e) is acknowledged.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **seven hundred forty-seven (747)** days subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to the undersigned at (571)272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions

Enc: draft certificate of correction

UNITED STATES PATENT AND TRADEMARK OFFICE
DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,951,841 B2

DATED : May 31, 2011

INVENTOR(S) : Palczewski et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 690 days.

Delete the phrase "by 690 days" and insert – by 747 days--



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/629,962	09/03/2008	Marina Radrizzani	48974-0001-00-US[235224]	1124
23973 7590 10/26/2011 DRINKER BIDDLE & REATH ATTN: INTELLECTUAL PROPERTY GROUP ONE LOGAN SQUARE, SUITE 2000 PHILADELPHIA, PA 19103-6996			EXAMINER SHEN, WU CHENG WINSTON	
			ART UNIT 1632	PAPER NUMBER
			NOTIFICATION DATE 10/26/2011	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DBRIPDocket@dbr.com
penelope.mongelluzzo@dbr.com



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Brian Lathrop
DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE, SUITE 2000
PHILADELPHIA PA 19103-6996

In re Application of :
Salvatori et al :Decision on Petition
Serial No.: 11/629,962 :
Filed : 3 September 2008 :
Attorney Docket No.: 48974-0001-00-US(235224) :

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on 5 July 2011 requesting reconsideration of the lack of unity requirement mailed 15 October 2010.

BACKGROUND

This application was filed as a national stage of a PCT application and as such is entitled to consideration under PCT unity of invention rules.

On 2 April 2010, the examiner set forth a first lack of unity requirement which divided claims 54-95 and 97-101 into 99 groups.

In response, on 22 July 2010, applicants filed an amendment to the claims and elected Group II, with traverse.

On 15 October 2010, the examiner mailed to applicants a second restriction requirement, dividing amended claims 55-101 into 15 groups and requiring a series of election of species requirements.

On 18 January 2011, applicants elected Group I, claims 55-64, 66-75, 78-82, 93 and 94 and a series of species, with traverse.

On 4 March 2011, the examiner mailed a non-final Office action in which the traversal was considered, the lack of unity determination was maintained, and the requirement was made final. Claims 56, 58-65, 67, 68, 70-92, 95-101 were withdrawn from examination. Claims 55, 57, 66, 69, 93 and 94 were examined on the merits.

On 5 July 2011, applicants filed a response to the Office action along with this petition.

DISCUSSION

The file history and petition have been considered carefully.

This national stage filing is entitled to PCT Unity of Invention practice with regard to any restriction or election of species requirement. However, the examination of a national stage filing must comport with US practice per 35 U.S.C. 372(a),

All questions of substance and, within the scope of the requirements of the treaty and Regulations, procedure in an international application designating the United States shall be determined as in the case of national applications regularly filed in the Patent and Trademark Office.

PCT Rules 13.2 states that:

With respect to a group of inventions claimed in an international application, unity of invention exists only when there is a technical relationship among the claimed inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" is defined in Rule 13.2 as meaning those technical features that define a contribution which each of the inventions, considered as a whole, makes over the prior art.

The criteria for determining the concept of "contribution over the prior art" is further discussed in Chapter 10 of the International Search and Preliminary Examination Guidelines.

At the onset, inconsistent treatment of the claims is noticed. For example, Claim 55 and 57 have been examined while claims 56 and 58, which recite similar to identical subject matter have been withdrawn from consideration.

55. (Currently Amended) An isolated polynucleotide comprising a nucleotide sequence encoding thymidine kinase wherein at least one of the nucleotides corresponding to the splice donor site nucleotides at positions 329 and 330 of the wild type sequence in Figure 1 (Ik wt) is replaced by another nucleotide, and wherein the nucleotides of the splice acceptor sites are not altered.

56. (Withdrawn) The polynucleotide according to claim 55 wherein both the nucleotides corresponding to splice donor site nucleotides at positions 329 and 330 of the wild type sequence in Figure 1 are replaced by another nucleotide.

57. (Previously presented) The polynucleotide according to claim 55 wherein the nucleotide corresponding to position 330 is changed from T to C.

58. (Withdrawn) The polynucleotide according to claim 56, wherein the nucleotide corresponding to position 330 is changed from T to C

Similarly, claim 94 directed to a vector comprising the polynucleotide of examined claim 55 was examined; however, claims 95, 96, and 97, directed to a host cell, pharmaceutical composition and a kit all of which also comprise the polynucleotide of claim 55 were withdrawn from examination.

94. (Currently Amended) A vector comprising a polynucleotide as defined in claim 55 [[or 66]].

95. (Withdrawn – Currently Amended) A host cell comprising a polynucleotide as defined claim 55 [[or 66]].

96. (Withdrawn – Currently Amended) A pharmaceutical composition comprising a polynucleotide as defined in claim 55 [[or 66]], and a pharmaceutically acceptable carrier.

97. (Withdrawn – Currently Amended) A kit comprising (i) a polynucleotide according to claim 55 [[or 66]]; and (ii) a substantially non-toxic agent which is converted by thymidine kinase into a toxic agent.

This type of lack of unity determination is counter to ISPE Guidelines Examples 13 and 15

Example 13

Claim 1: Filament A for a lamp.

Claim 2: Lamp B having filament A.

Claim 3: Searchlight provided with lamp B having filament A and a swivel arrangement C.

Unity exists between claims 1, 2 and 3.

Example 15:

Claim 1: Compound A.

Claim 2: An insecticide composition comprising compound A and a carrier.

Unity exists between claims 1 and 2. The special technical feature common to all the claims is compound A.

Next, it is noticed that amended claims were provided on 5 July 2011. ISPE Guidelines 20.09 requires the examiner to reconsider any lack of unity determination in view of the amended claims. Amended claims 59, shown below, and Claims 63-65 which depend upon it have been amended so that they have unity of invention with elected independent claim 55.

59. (Withdrawn – Currently Amended) The polynucleotide of claim 55 wherein ~~at least one of the nucleotides corresponding to splice acceptor site nucleotides at positions 554 and 555 and at least one of the nucleotides corresponding to splice acceptor site the~~ nucleotides at positions 662 and 663 of the wild type sequence in Figure 1 ~~[[is]]~~ are not altered.

The petitioner requests that Claims 66-77 grouped together for examination in a Group separate from Claims 55 and its dependencies. In view of the current amendment to Claim 66, this request is persuasive. Claim 66 has been amended as follows and lacks unity of invention with Claim 55 for requiring a replacement of a nucleotide in the splice acceptor site:

66. (Currently amended) ~~[[The]]~~ A polynucleotide comprising a nucleotide sequence encoding a thymidine kinase wherein at least one of the nucleotides corresponding to the splice donor site nucleotides at positions 329 and 330 of the wild type sequence in Figure 1 (1k wt) is replaced by another nucleotide and ~~of claim 55~~ wherein at least one of the nucleotides corresponding to the splice acceptor site nucleotides at positions 541 and 542 of the wild type sequence in Figure 1 is replaced by another nucleotide.

The petition requests reconsideration of the unity of invention determination between product and process claims. In particular, applicants seek concurrent examination of the process claims with elected claims 55. This request is not persuasive.

On 2 April 2010, the examiner found unity lacking between the product and the process of using the product of Group I. The Office action contains an outstanding prior art rejection on the product claims.

PCT Rule 13.2 permits restriction in this situation if the prior art anticipates or renders obvious that shared technical feature. This is consistent with Example 1 of the International Search and Examination Guidelines published in 2004.

Claim 1: A method of manufacturing chemical substance X.
 Claim 2: Substance X.
 Claim 3: The (method of) use of substance X as an insecticide.

Unity exists between claims 1, 2 and 3. The special technical feature common to all the claims is substance X. However, if substance X is known in the art, unity would be lacking because there would not be a special technical feature common to all the claims.

For this reason, the lack of unity determination between the product and the process inventions is warranted.

Applicants request reconsideration of the further restriction to a single sequence. On 2 April 2010, the examiner required applicants to elect a single sequence for examination. However, a review of the SCORE results show that on 17 March 2010, the examiner has already obtained search results for SEQ ID Nos 1,2, 3, 4, 5, 6 and 7. A section of the drawing is reproduced below to show that SEQ ID NOs 1-7 are closely related in structure:

	3	4	
Tk wt : 541	agcatgacccccagggcgtgctggcggttcgtggccctcatcccgccgaccttgcccggc		600
TkMut2 :	agcatgacccccagggcgtgctggcggttcgtggccctcatcccgccgaccttgcccggc		
TkMut23 :	tccatgacccccagggcgtgctggcggttcgtggccctcatcccgccgaccttgcccggc		
TkMut24 :	agcatgacccccagggcgtgctggcggttcgtggccctcatcccgccgaccttgcccggc		
TkMut34 :	tccatgacccccagggcgtgctggcggttcgtggccctcatcccgccgaccttgcccggc		
TkMut4 :	agcatgacccccagggcgtgctggcggttcgtggccctcatcccgccgaccttgcccggc		
TkMut234 :	tccatgacccccagggcgtgctggcggttcgtggccctcatcccgccgaccttgcccggc		

Because the sequences are few in number and closely related, the requirement to elect a single sequence for examination has been withdrawn. The sequences will be grouped into Group I or Group II according to whether or not they contain a replacement of a nucleotide residue in the splice acceptor site.

DECISION

For these reasons, the petition filed under 37 CFR 1.144 on 5 July 2011 is **GRANTED** follows.

The lack of unity determination set forth on 2 April 2010 has been withdrawn and re-formatted as:

Group I, Claims 55-59, 63-65, 93-97, drawn to a polynucleotide encoding thymidine kinase wherein at least one of the nucleotides corresponding to the splice donor site at positions 329 and 330 of wild type sequence in Figure 1 is replaced by another nucleotide and splice acceptor sites are not altered.

Group II, Claims 66-77, drawn to a polynucleotide encoding thymidine kinase wherein at least one of the nucleotides corresponding to the splice donor site at positions 329 and 330 of wild type sequence in Figure 1 is replaced by another nucleotide and splice acceptor sites 541 and 542 are altered.

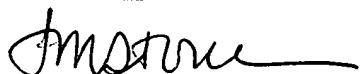
Group III, claims 98-101, directed to methods of using the polynucleotides of Group I.

The lack of unity determination between Group I, the product, and Group III, the process of using the product of Group, is maintained, there being prior art of record teaching the product. Should all claims to the product become allowable, the examiner should consider the process for rejoinder according to MPEP 821.04(b).

The election of a single sequence has been withdrawn.

The application will be forwarded to the examiner to consider the papers filed 5 July 2011, and to prepare an Office action consistent with this petition decision.

Should there be any questions regarding this decision, please contact Quality Assurance Specialist Julie Burke by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-0512 or by Official Fax at 703-272-8300.

A handwritten signature in black ink, appearing to read "J. Stone", with a long horizontal flourish extending to the right.

Jacqueline Stone
Director, Technology Center 1600



UNITED STATES PATENT AND TRADEMARK OFFICE

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TECHNOLOGY LAW, PLLC
3595 N. SUNSET WAY
SANFORD MI 48657

PCT LEGAL ADMINISTRATION

In re Application of:	:	
TOMALIA, Donald, A., et al.	:	DECISION ON PETITION
U.S. Application No.: 11/630,044	:	(37 CFR 1.78(a)(3) and (a)(6))
PCT No.: PCT/US2005/047635	:	
International Filing Date: 21 December 2005	:	
Priority Date: 20 April 2005	:	
Attorney's Docket No.: DNT-32 US	:	
For: DENDRITIC POLYMERS WITH	:	
ENHANCED AMPLIFICATION AND	:	
INTERIOR FUNCTIONALITY	:	

This decision is issued in response to the "Petition Under 37 C.F.R. 1.78(a)(6)" filed 15 April 2011, treated herein under 37 CFR 1.73(a)(3) and (a)(6). The petition seeks to add to the present application acceptable benefit claims to prior-filed international application PCT/US2005/013864 and to prior-filed U.S. provisional application 60/563,659.

The petition is **GRANTED**.

37 CFR 1.78(a)(3) applies where, as here, the applicant in an application filed on or after November 29, 2000 seeks to add, after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii), a claim of benefit under 35 U.S.C. 120 and 365(c) to a prior-filed international application designating the United States. 37 CFR 1.78(a)(6) applies where, as here, the applicant in an application filed on or after November 29, 2000 seeks to add, after the expiration of the period specified in 37 CFR 1.78(a)(5)(ii), a claim of benefit under 35 U.S.C. 119(e) to a prior-filed U.S. provisional application. Accordingly, the present petition is properly considered under both 37 CFR 1.78(a)(3) and (a)(6).

A grantable petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) must include the following:

- (1) the references to the prior-filed applications required by 35 U.S.C. 120 and 119(e) and 37 CFR 1.78(a)(2)(i) and 1.78(a)(5)(i), unless previously submitted;
- (2) the applicable surcharge set forth in 37 CFR 1.17; and
- (3) a statement that the entire delay between the date the claims were due under 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional.

The present petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) and (a)(6) in that: (1) a proper reference identifying the present national stage application as "a continuation-in-part of PCT/US05/13864, filed April 20, 2005, which claims benefit of US Provisional Application 60/563,659, filed April 20, 2004" has been included in the amendment to the first sentence of the specification filed with the present petition on 15 April 2011; (2) applicant has submitted payment of the required surcharge; and (3) the petition includes a proper statement of unintentional delay. Accordingly, having found that the petition for acceptance of the unintentionally delayed claims for the benefit of priority under 35 U.S.C. 120 and 119(e) to the prior filed applications satisfies the conditions of 37 CFR 1.78(a)(3) and (a)(6), the petition is appropriately granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and (a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. 120 and 119(e) and 37 CFR 1.78(a)(1), (a)(2), (a)(5), and (a)(6) must be met. Similarly, the fact that the Filing Receipt accompanying this decision on petition will include the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt that includes the priority claims directed to the prior-filed international and U.S. provisional applications accompanies this decision on petition.

Any questions concerning this decision may be directed to the undersigned. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1762 for appropriate consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. 120 and 119(e) to the prior-filed international and provisional applications.

/RichardMRoss/

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
(571) 272-3296

ATTACHMENT: Corrected Filing Receipt



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

HENRY C. QUERY, JR.
504 S. PIERCE AVENUE
WHEATON IL 60187

MAILED

FEB 13 2012

OFFICE OF PETITIONS

In re Application of :
Clear :
Application No. 11/630,174 : DECISION
Filed/Deposited: 18 December, 2006 :
Attorney Docket No. SAFE-P001 :

This is a decision on the papers filed on 17 January, 2012 , considered as a petition pursuant to 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition pursuant to 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. §1.181."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing requirements for relief pursuant to 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the final Office action mailed on 23 May, 2011, with reply due absent extension of time (request and fee) on or before 23 August, 2011.

Petitioner filed an after-final amendment, which the Examiner refused to enter and Petitioner—as one registered to practice before the Office—knew was not as of right and not a proper reply¹ if it did not *prima facie* place the application in condition for allowance, and on 8 August, 2011, the Examiner mailed an Advisory Action.

The application went abandoned by operation of law after midnight 23 August, 2011.

On 23 September, 2011, Petitioner filed, *inter alia*, a reply in the form of a request for continued examination (RCE) and a submission under the provisions of 37 C.F.R. §1.114 in the form of an amendment previously submitted, with a request for extension of time and statement of an accompanying credit card form to cover fees, however, no form was including and so no fees were included.

The Office mailed the Notice of Abandonment on 10 January, 2012.

On 17 January, 2011, Petitioner submitted a petition, petition pursuant to 37 C.F.R. §1.181 to withdraw the holding of abandonment, however, despite the Petitioner's narrative, the submission did not satisfy the requirements under the rule as to statement and documentary showing (e.g., no FAX Acknowledgment Receipt was included). Thus, Petitioner failed to satisfy the showing requirements set forth in the Commentary at MPEP §711.03(c)(I). Petitioner may find it beneficial to review that material and move step-wise through them.

With regard to Petitioner's request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, the guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to timely filing:

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

¹ A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission under 37 C.F.R. §1.114). (See: MPEP §711.03(c).)

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512.²

A Petitioner unable to comply with and/or otherwise satisfy these requirements may wish to revive the application: Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

² See: MPEP §711.03(c) (I)(B).

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation—since all owe to the Office the continuing duty to disclose.³

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.^{4, 5}

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business.

³ See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See *Changes to Patent Practice and Procedure*, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18 (formerly 37 C.F.R. §10.18) to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

⁴ See: *Changes to Patent Practice and Procedure*; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

⁵ The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a). And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

Application No. 11/630,174

If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.⁶

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

As discussed above, Petitioner appears not to have made the showing required.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner pursuant to 37 C.F.R. §1.137(b) requesting revival of an application abandoned due to unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that “the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.” (The statement is in the form available online.)

Petitioner is cautioned that the failure to file timely a petition pursuant to 37 C.F.R. §1.137(b) seeking to revive an application abandoned due to unintentional delay may be considered *indicia* of delay that is other than unintentional.

Further correspondence with respect to this matter should be addressed as follows:

⁶ *In re Mattullath*, 38 App. D.C. 497, 514-15 (1912)(quoting *Ex parte Pratt*, 1887 Dec. Comm’r Pat. 31, 32-33 (1887)); see also *Winkler v. Ladd*, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), *aff’d*, 143 USPQ 172 (D.C. Cir. 1963); *Ex parte Henrich*, 1913 Dec. Comm’r Pat. 139, 141 (1913). In addition, decisions on revival are made on a “case-by-case basis, taking all the facts and circumstances into account.” *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was “unavoidable.” *Haines v. Quigg*, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).


Application No. 11/630,174

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By facsimile: **(571) 273-8300**
 Attn: Office of Petitions

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2⁷) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).



/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

⁷ The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.



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504 S. PIERCE AVENUE
WHEATON IL 60187

MAILED

MAR 05 2012

In re Application of	:	OFFICE OF PETITIONS
Clear	:	
Application No. 11/630,174	:	DECISION
Filed/Deposited: 18 December, 2006	:	
Attorney Docket No. SAFE-P001	:	

This is a decision on the papers filed on 16 February, 2012, considered as a petition pursuant to 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

NOTE:

Petitioner inappropriately and improperly referred to a telephone conversation averred to have taken place with someone at the Office.

Petitioner—as one registered to practice before the Office—is well aware that that all practice before the Office is in writing (see: 37 C.F.R. §1.2¹) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP).

Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

The petition pursuant to 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted.

¹ The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

Application No. 11/630,174

The reconsideration request should include a cover letter entitled “Renewed Petition pursuant to 37 C.F.R. §1.181.”

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing requirements for relief pursuant to 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the final Office action mailed on 23 May, 2011, with reply due absent extension of time (request and fee) on or before 23 August, 2011.

Petitioner filed an after-final amendment, which the Examiner refused to enter and Petitioner—as one registered to practice before the Office—knew was not as of right and not a proper reply² if it did not *prima facie* place the application in condition for allowance, and on 8 August, 2011, the Examiner mailed an Advisory Action.

The application went abandoned by operation of law after midnight 23 August, 2011.

On 23 September, 2011, Petitioner filed, *inter alia*, a reply in the form of a request for continued examination (RCE) and a submission under the provisions of 37 C.F.R. §1.114 in the form of an amendment previously submitted, with a request for extension of time and statement of an accompanying credit card form to cover fees, however, no credit card form was included and so no fees were included.

The Office mailed the Notice of Abandonment on 10 January, 2012.

² A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission under 37 C.F.R. §1.114). (See: MPEP §711.03(c).)

On 17 January, 2011, Petitioner submitted a petition, petition pursuant to 37 C.F.R. §1.181 to withdraw the holding of abandonment, however, despite the Petitioner's narrative, the submission did not satisfy the requirements under the rule as to statement and documentary showing (*e.g.*, no FAX Acknowledgment Receipt was included). Thus, Petitioner failed to satisfy the showing requirements set forth in the Commentary at MPEP §711.03(c)(I), and the petition was dismissed on 13 February, 2012.

On 16 February, 2012, Petitioner re-advanced his decision, but apparently incautiously submitted only a portion of the papers Petitioner may have intended to submit. This recent transaction history suggests that Petitioner previously may well have done the same on submission back in September of 2011. Moreover, as noted above, Petitioner elected, inappropriately, to refer to a conversation averred to have taken place with someone at the Office. The decision on petition of 13 February, 2012, expressly cautioned Petitioner as to the inappropriateness of such action.³ Petitioner apparently chose to ignore that caution. While Petitioner may find it beneficial to review the guidance in the Commentary at MPEP §711.03(c)(I) and move step-wise through it, it appears that Petitioner now must submit a petition pursuant to 37 C.F.R. §1.137(b), with fee, reply and statement of unintentional delay.

With regard to Petitioner's request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, the guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to timely fling:

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard

³ That decision carried—as do all such decisions by the undersigned—the following statement accompanied by an express quotation of the regulation:

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512.⁴

A Petitioner unable to comply with and/or otherwise satisfy these requirements may wish to revive the application: Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See:

http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation—since all owe to the Office the continuing duty to disclose.⁵

⁴ See: MPEP §711.03(c) (I)(B).

⁵ See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.^{6, 7}

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.⁸

and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18 (formerly 37 C.F.R. §10.18) to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

⁶ See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

⁷ The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a). And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

⁸ In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Application No. 11/630,174

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

As discussed above, Petitioner appears not to have made the showing required.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner pursuant to 37 C.F.R. §1.137(b) requesting revival of an application abandoned due to unintentional delay. (See:
http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that “the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.” (The statement is in the form available online.)

Petitioner is cautioned that the failure to file timely a petition pursuant to 37 C.F.R. §1.137(b) seeking to revive an application abandoned due to unintentional delay may be considered *indicia* of delay that is other than unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450


By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building

Application No. 11/630,174

401 Dulany Street
Alexandria, VA 22314

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2⁹) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).



/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

⁹ The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HENRY C. QUERY, JR.
504 S. PIERCE AVENUE
WHEATON IL 60187

MAILED

MAR 19 2012

OFFICE OF PETITIONS

In re Application of
Clear
Application No. 11/630,174
Filed/Deposited: 18 December, 2006
Attorney Docket No. SAFE-P001

:
:
: DECISION
:
:

This is a decision on the papers filed on 13 March, 2012, considered as a petition pursuant to 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition pursuant to 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing requirements for relief pursuant to 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the final Office action mailed on 23 May, 2011, with reply due absent extension of time (request and fee) on or before 23 August, 2011.

Application No. 11/630,174

Petitioner filed an after-final amendment, which the Examiner refused to enter and Petitioner—as one registered to practice before the Office—knew was not as of right and not a proper reply¹ if it did not *prima facie* place the application in condition for allowance, and on 8 August, 2011, the Examiner mailed an Advisory Action.

The application went abandoned by operation of law after midnight 23 August, 2011.

On 23 September, 2011, Petitioner filed, *inter alia*, a reply in the form of a request for continued examination (RCE) and a submission under the provisions of 37 C.F.R. §1.114 in the form of an amendment previously submitted, with a request for extension of time and statement of an accompanying credit card form to cover fees, however, no credit card form was included and so no fees were included.

The Office mailed the Notice of Abandonment on 10 January, 2012.

On 17 January, 2011, Petitioner submitted a petition, petition pursuant to 37 C.F.R. §1.181 to withdraw the holding of abandonment, however, despite the Petitioner's narrative, the submission did not satisfy the requirements under the rule as to statement and documentary showing (e.g., no FAX Acknowledgment Receipt was included). Thus, Petitioner failed to satisfy the showing requirements set forth in the Commentary at MPEP §711.03(c)(I), and the petition was dismissed on 13 February, 2012.

On 16 February, 2012, Petitioner re-advanced his decision, but apparently incautiously submitted only a portion of the papers Petitioner may have intended to submit. This recent transaction history suggests that Petitioner previously may well have done the same on submission back in September of 2011. Moreover, as noted above, Petitioner elected, inappropriately, to refer to a conversation averred to have taken place with someone at the Office. The decision on petition of 13 February, 2012, expressly cautioned Petitioner as to the inappropriateness of such action.² Petitioner apparently chose to ignore that caution. The petition was dismissed on 5 March, 2012, for failure to make the showing outlined in the guidance set forth in the Commentary at MPEP §711.03(c)(I)

On 13 March, 2012, Petitioner re-advanced his petition, this time with the documentary and narrative showings set forth in the guidance in the Commentary at MPEP §711.03(c)(I) to support, *inter alia*, the averment of having timely and properly submitted the fee authorization for extension of time on 23 September, 2011, with his request for continued examination (RCE)

¹ A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission under 37 C.F.R. §1.114). (See: MPEP §711.03(c).)

² That decision carried—as do all such decisions by the undersigned—the following statement accompanied by an express quotation of the regulation:

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

and a submission under the provisions of 37 C.F.R. §1.114 in the form of an amendment previously submitted, with a request (and fee) for extension of time.

With regard to Petitioner's request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, the guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to timely filing:

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of

the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512.³

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation—since all owe to the Office the continuing duty to disclose.⁴

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.^{5, 6}

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

³ See: MPEP §711.03(c)(I)(B).

⁴ See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18 (formerly 37 C.F.R. §10.18) to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

⁵ See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

⁶ The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

Application No. 11/630,174

Decisions on reviving abandoned applications on the basis of “unavoidable” delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word ‘unavoidable’ . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.⁷

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears to have made the showing required.

CONCLUSION

Accordingly, the petition as considered pursuant to 37 C.F.R. §1.181 is **granted**, and the 10 January, 2012, Notice of Abandonment hereby is **vacated**.

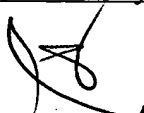
The instant application is released to the Technology Center/AU 3634 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

⁷ In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm’r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff’d, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm’r Pat. 139, 141 (1913). In addition, decisions on revival are made on a “case-by-case basis, taking all the facts and circumstances into account.” Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was “unavoidable.” Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Application No. 11/630,174

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2⁸) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).



/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

⁸ The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**JONES DAY
222 E.41ST STREET
NEW YORK NY 10017**

MAILED

JAN 19 2011

OFFICE OF PETITIONS

In re Application of
CHOSSET, Howard M.
Application No. 11/630,279
Filed: December 20, 2006
Attorney Docket No. **PAT001174-001/PCT/US**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed December 17, 2010.

The request is **NOT APPROVED**.

A review of the file record indicates that Customer No. 20583 does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

31 AUG 2009



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of	:	
HITCHCOCK, Robin Garth et al.	:	
Application No.: 11/630,360	:	
PCT No.: PCT/AU2005/000931	:	
Int. Filing Date: 24 June 2005	:	DECISION
Priority Date: 25 June 2004	:	
Docket No.: 4398-631	:	
For: FOREHEAD SUPPORT FOR A PATIENT	:	
INTERFACE	:	

This decision is in response to Applicant's Request For Reconsideration of Decision, filed in the above-captioned application on 08 January 2009.

BACKGROUND

On 21 December 2006, applicants supplied a transmittal letter for entry into the national phase in the United States, accompanied by, *inter alia*, the basic national fee. Applicants had supplied a declaration for the United States under PCT Rule 26ter during the international phase.

On 31 May 2007, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that the oath or declaration of the inventors identifying the international application by international application number and by international filing date was required. It set a TWO (2) MONTH extendable period for response.

On 25 June 2007, applicants resubmitted the declaration filed during the international phase.

On 22 January 2008, the Office mailed Notification of Defective Response (Form PCT/DO/EO/916) stating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required and that the current declaration does not identify the application to which it is directed.

On 14 February 2008, applicants submitted a copy of the international publication, including the PCT Rule 26ter declaration.

On 18 August 2008, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909), indicating applicants failed to respond to the 31 May 2007 Notification of Missing Requirements.

On 16 September 2008, applicants filed a petition to withdraw the holding of abandonment.

On 10 November 2008, the Office mailed Decision On Petition, indicating that the declaration did not comply with 37 CFR 1.497(a)-(b) and that the application remained abandoned.

On 08 January 2009, applicants filed a Renewed Petition.

On 09 January 2009, applicants filed a new declaration of the inventors.

DISCUSSION

Applicants supplied a declaration within the time limit of PCT Rule 26ter, but it did not comply with PCT Rule 26ter. The declaration that applicants furnished reads "this declaration is directed to international application No. PCT/.....(if furnishing declaration pursuant to Rule 26ter)." As this declaration was not properly completed prior to execution by the inventors, it does not comply with 37 CFR 1.497(a)-(b). It fails to identify the international application to which it was directed. Contrary to applicants' assertion, nothing within the text of the declaration supplied by applicants identifies this application. The only piece of information that would identify the application is the international application number, which was not filled in. The declaration was supplied under PCT Rule 26ter, it was not attached to the Request when filed.

Applicants were twice informed that a declaration in compliance with 37 CFR 1.497(a)-(b) was required. The second notice clearly stated that the declaration failed to identify the international application number to which it was directed. A "*bona fide*" response to a Notification of Defective Response is not sufficient. As the Notification of Defective Response clearly states, "Applicant is required to complete the response within a time limit of ONE MONTH from the date of this Notification or within the time remaining in the response set forth in the Notification of Missing Requirements, whichever is longer." As applicants failed to properly respond to the Notification of Missing Requirements, the application went abandoned.

CONCLUSION

Applicants' petition to withdraw the holding of abandonment under 37 CFR 1.181 is **DISMISSED** without prejudice.

This application remains abandoned.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

MAILED

JUL 06 2011

In re Application of :
HITCHCOCK, Robin Garth et al. :
Application No.: 11/630,360 :
PCT No.: PCT/AU2005/000931 :
Int. Filing Date: 24 June 2005 :
Priority Date: 25 June 2004 :
Docket No.: 4398-631 :
For: FOREHEAD SUPPORT FOR A :
PATIENT INTERFACE :

PCT LEGAL ADMINISTRATION

DECISION

Applicant's petition under 37 CFR 1.137(b), filed in the United States Patent and Trademark Office on 29 December 2010, is **GRANTED**.

Applicant states that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). The appropriate response and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

The 09 January 2009 declaration of the inventors complies with 37 CFR 1.497(a)-(b). The fee for furnishing the search fee, examination fee or oath or declaration after thirty months will be charged to deposit account no. 14-1140, as authorized.

This application is being referred to the National Phase Processing Branch of the Office of Patent Application Processing for further action consistent with this decision.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Howard IP Law Group
P.O. Box 226
Fort Washington PA 19034

MAILED

MAR 16 2011

PCT LEGAL ADMINISTRATION

In re Application of	:	
PAYAN, et al.	:	
U.S. Application No.: 11/630,417	:	DECISION ON PETITION
PCT No.: PCT/FR2005/050490	:	
Int. Filing Date: 24 June 2005	:	UNDER 37 CFR 1.137(b)
Priority Date: 24 June 2004	:	
Attorney Docket No.: BEAUMONT-43	:	
For: ESCHAR PREVENTION DEVICE	:	

The petition to revive under 37 CFR 1.137(b) filed 18 February 2011 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided an English translation of the international application as filed and an executed declaration of the inventors; thus the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294



UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 10 2011

Paper No.

OFFICE OF PETITIONS

LADAS & PARRY
5670 WILSHIRE BOULEVARD, SUITE 2100
LOS ANGELES CA 90036-5679

In re Patent No. 7,860,501 :
Issue Date: December 28, 2010 :
Application No. 11/630,427 :
Inventor: Wu : DECISION ON PETITION
Filed: December 27, 2007 : PURSUANT TO
Attorney Docket No. B-6183PCT : 37 C.F.R. § 1.182
623902-1 :
Title: METHOD OF INFORMING A :
NETWORK OF CHANGE OF USER :
EQUIPMENT CAPABILITY :

This is a decision on the petition filed on July 19, 2011, pursuant to 37 C.F.R. § 1.182, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The file record discloses that application No. 11/630,427 matured into U.S. Patent No. 7,860,501 on December 28, 2010. The electronic records further reveal that on that same date, the Patent Grant was mailed to the address of record. However, Petitioner requests a duplicate, contending that the Letters Patent has been lost. Receipt of the petition fee is acknowledged.

The petition is **GRANTED**. The Publishing Division is directed to **issue a duplicate Letters Patent**. The Publishing Division (which may be reached at 571-272-4200) will be made aware of this decision in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.¹

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

¹ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/630,439	12/22/2006	Toshiaki Kuraoka	KURA3006/GAL	5110
23364 7590 03/23/2011 BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314-1176			EXAMINER MILLER, BENA B	
			ART UNIT 3725	PAPER NUMBER
			MAIL DATE 03/23/2011	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314-1176

In re Application of:
KURAOKA, TOSHIAKI
Serial No.: 11/630,439
Filed: Dec. 22, 2006
Docket: KURA3006/GAL
Title: DOCUMENT SHREDDER DEVICE

DECISION ON PETITION TO
REVIEW RESTRICTION
REQUIREMENT UNDER
37 CFR 1.144

This is a decision on the petition filed March 7, 2011 to review the election of species requirement promulgated in October 14, 2010 Office action. The petition is being considered pursuant to 37 CFR 1.181 and CFR 1.144 and no fee is required for the petition.

The petition is **GRANTED**.

In the March 7, 2010 petition, petitioner requests the examiner to reconsider the election of species requirement of October 14, 2010 because the examiner did not clearly identify the disclosed species by figures. Petitioner also argues that the examiner failed to explain why the disclosed and claimed species are patentably distinct from each other and show any indication of a serious burden of search. In the petition, petitioner did acknowledge and accept the election between the groups of claims directed to the paper feeder (claims 1-9), shredder (claim 10) and compressor (claims 11-16), respectively. It is noted the applicant has indeed elected the Invention of Group I directed to the shredder, claims 1-9, in the response filed on April 22, 2010.

After consulting with the examiner, it is agreed that that the election of species should be withdrawn at this time. As such, the election of species requirement in the letter of October 14, 2010 is hereby withdrawn. A supplemental Office action treating the merits of claims 1-9 will be forthcoming.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3725 for preparation of a supplemental Office action. The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

Application Serial No. 11/630,439
Decision on Petition

PETITION GRANTED.

Angela D. Lykes for
Donald T. Hajec, Director
Technology Center 3700



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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria VA 22314

MAILED

OCT 08 2010

OFFICE OF PETITIONS

In re Application of :
Samuel Marlin :
Application No. 11/630,508 : **DECISION ON PETITION**
Filed: October 22, 2007 :
Attorney Docket No. 0543-1020 :

This is a decision on the request to remove an amendment, filed June 9, 2010 which is being treated as a petition under 37 CFR 1.59(b) to expunge information from the above identified application.

The petition is **dismissed**.

Petitioner requests that the amendment e-filed on June 9, 2010, (EFS ID 7776031) be expunged from the record. Petitioner requests this amendment be "removed" in favor of a second amendment e-filed on the same day.

The petition is deficient because there is no statement that:

- (B) the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;
- (C) the information has not otherwise been made public;
- (D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted.

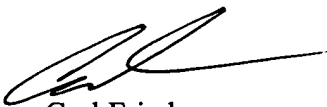
Petitioner is directed to MPEP 724.05(II).

Further, petitioner has not properly identified the papers to be amended. The petition does indicate which EFS ID number is the amendment to be expunged, however, both amendments were filed on the same day and an EFS ID number does not appear on the actual amendment

papers. Therefore, there is no way to identify which amendment is associated with EFS ID 7776031.

Petitions under 37 CFR 1.59(b) require a petition fee set forth in 37 CFR 1.17(g) which is currently \$200. The petition authorizes any necessary fees be charged to Deposit Account No. 25-0120, however, Office records show petitioner is not an authorized user of this account and thus the petition is missing the required petition fee.

Telephone inquiries concerning this communication should be directed to Carl Friedman at (571) 272-6842.

A handwritten signature in black ink, appearing to read 'Carl Friedman', with a long horizontal stroke extending to the right.

Carl Friedman
Petitions Examiner
Office of Petitions



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/630,515	02/01/2008	Cornelis Albert Valkhof	2005-1044	5099
<div>466 7590 09/20/2010 YOUNG & THOMPSON 209 Madison Street Suite 500 Alexandria, VA 22314</div>				
<div>EXAMINER SZMAL, BRIAN SCOTT</div>				
<div>ART UNIT PAPER NUMBER 3736</div>				
<div>NOTIFICATION DATE DELIVERY MODE 09/20/2010 ELECTRONIC</div>				

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com



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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria VA 22314

In re Application of:
VALKHOF, CORNELIS ALBERT et al
Serial No.: 11/630,515
Filed: Dec. 21, 2006
Docket: 2005-1044
Title: DEVICE FOR PREVENTING BRUXISM

DECISION ON PETITION

This is a decision on the Petition for Suspension of Action received on May 12, 2010, seeking to suspend action on the above-identified application for a period of six months. This petition is being considered pursuant to 37 CFR § 1.103.


The petition is dismissed.

On May 12, 2010, petitioner filed the current petition to suspend office action to provide additional time to deal with the pending bankruptcy in light of the application. In the petition, petitioner alleges that the applicant requests a suspension of action on the patent application for a period of six (6) months to allow the applicant additional time to deal with the pending bankruptcy.

The reason for a six-month suspension of action is not convincing and could not justify a six-month delay in prosecution. The Office must balance the burden of timely examinations and needs of the public to know which claims it faces with the needs of applicants in pursuing claims which reflect the scope to which they are entitled. Applicant has failed to outline where he presently stands in his dealing with the pending bankruptcy issues and the status of the pending bankruptcy. Petitioner fails to establish why, in particular, a six-month suspension of action will advance the resolution of the pending bankruptcy. Accordingly, petitioner has failed to establish good and sufficient reasons to delay the prosecution. The application remains in active status and being returned to the examiner for immediate examination of the application and issuance of an Office action in response to the applicant's amendment filed on May 12, 2010.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3736 for preparation of an Office action. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

The petition is DISMISSED.



Donald T. Hajec, Director
Technology Center 3700



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KRATZ, QUINTOS & HANSON, LLP
1420 K Street, N.W.
4th Floor
WASHINGTON DC 20005

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SEP 09 2011

OFFICE OF PETITIONS

Patent No. 7,860,647	:	
Issue Date: December 28, 2010	:	
Application No. 11/630,518	:	ON PETITION
Filed: December 21, 2006	:	
Attorney Docket No. 060961	:	

This is a decision on the petition filed January 10, 2011, which will be treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

A petition under 37 CFR 3.81(b) requires a fee of \$130. This fee will be charged to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to the Kimberly Inabinet at (571) 272-4618. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 756-1814.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions



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JAN 07 2011

PCT LEGAL ADMINISTRATION

NOVARTIS VACCINES AND DIAGNOSTICS INC.
INTELLECTUAL PROPERTY- X100B
P.O. BOX 8097
Emeryville CA 94662-8097

In re Application of :
VALIANTE, Nicholas, et al. :
Application No.: 11/630,550 :
PCT No.: PCT/US2005/022520 :
Int. Filing Date: 24 June 2005 :
Priority Date: 24 June 2004 :
Attorney's Docket No.: PAT051759-US-PCT :
For: SMALL MOLECULE :
IMMUNOPOTENTIATORS AND :
ASSAYS FOR THE DETECTION :

DECISION

This decision is in response to renewed request under 37 CFR 1.497(d) and petition under 37 CFR 1.137(b), filed in the United States Patent and Trademark Office on 14 October 2010.

BACKGROUND

On 11 March 2009, the Office mailed Decision On Request Under 37 CFR 1.497(d), refusing applicants' request and requiring a processing fee, \$130. It set a two month period for response.

On 13 September 2010, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909), indicating the application went abandoned for failure to timely response to the 11 March 2009 decision.

On 14 October 2010, applicants filed this renewed request and a petition under 37 CFR 1.137(b).

DISCUSSION

Upon further review of the file, a processing fee was paid with the 05 January 2009 Request. The processing fee was placed in international application no. PCT/US05/22520, the application to which the papers were directed. As the fee had been paid, the request was grantable. The 1.137(b) petition fee and the duplicate processing fee will be refunded to deposit account no. 03-1664, as authorized. The Notification of Abandonment (Form PCT/DO/EO/909) is **VACATED**.

Request Under 37 CFR 1.497(d)

Applicants filed a request to add Johanna Jansen and Susan Kaufman as inventors.

A request under 37 CFR 1.497(d) requires: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in §1.17(i); and (3) the written consent of the assignee, if an original named inventor has executed an assignment.

Items (1), (2) and (3) have been satisfied.

CONCLUSION

For the above reasons, applicant's request under 37 CFR 1.497(d) is **GRANTED**. The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 13 September 2010 is **VACATED**.

This application is being referred to the National Phase Processing Branch of the Office of Patent Application Processing for further action consistent with this decision.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292



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FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

MAILED

DEC 13 2010

OFFICE OF PETITIONS

In re Application of
Jurgen BRUNNER
Application No. 11/630,565
Filed: August 24, 2007
Attorney Docket No. 14219-127US1
P2004,0498 U

:
:
: DECISION GRANTING PETITION
: UNDER 37 CFR 1.313(c)(2)
:

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 10, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 19, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted.

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 1716 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.



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BRACCO RESEARCH USA INC.
305 COLLEGE ROAD EAST
PRINCETON NJ 08540

MAILED

MAY 24 2011

In re Application of
AIME, Silvo et al.
Application No.: 11/630,600
PCT No.: PCT/EP2005/006956
Int. Filing Date: 28 June 2005
Priority Date: 2 July 2004
ATTY Docket No.: 359B-US
For: CONTRAST AGENTS ENDOWED WITH
HIGH RELAXIVITY

PCT LEGAL ADMINISTRATION

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

This decision is in response to applicant's PETITION UNDER 37 C.F.R. 1.137(b) filed in the United States Patent and Trademark Office (USPTO) on 12 April 2011.

BACKGROUND

On 28 June 2005, applicant filed international application PCT/EP2005/006956, which claimed priority of an earlier United States application filed 02 July 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 12 January 2006. The thirty-month period for paying the basic national fee in the United States expired on 02 January 2007.

On 20 December 2006, Applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 27 April 2007, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 28 June 2007, the international application PCT/EP2005/006956 became abandoned as to the United States for failure to timely respond to the Notification of Missing Requirements.

On 12 April 2011, the applicant filed the present petition under 37 CFR 1.137(b).

Application No.: 11/630/600

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer in the application was filed before 08 June 1995.

With regard to item (1), applicant has not provided the required reply under 35 U.S.C. 371. In particular, the declaration submitted with the petition is not in compliance with 37 CFR 1.497(d) in that the given name and surname of the sixth inventor are reversed from that shown in the published international application.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)". No additional petition fee is required.

Any further correspondence with request to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Shane Thomas
Detailee, Office of PCT Legal Administration
Tel: (571) 272-6095



Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration



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305 COLLEGE ROAD EAST
PRINCETON NJ 08540

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JUN 13 2011

PCT LEGAL ADMINISTRATION

In re Application of	:	
AIME, Silvo et al.	:	
Application No.: 11/630,600	:	
PCT No.: PCT/EP2005/006956	:	DECISION ON PETITION
Int. Filing Date: 28 June 2005	:	
Priority Date: 2 July 2004	:	UNDER 37 CFR 1.182 and
ATTY Docket No.: 359B-US	:	
For: CONTRAST AGENTS ENDOWED WITH	:	37 CFR 1.137(b)
HIGH RELAXIVITY	:	
	:	
	:	
	:	

This decision is in response to applicant's PETITION UNDER 37 C.F.R. 1.182 filed in the United States Patent and Trademark Office (USPTO) on 01 June 2011, which is also being treated as a renewed petition under 37 CFR 1.137(b).

BACKGROUND

On 28 June 2005, applicant filed international application PCT/EP2005/006956, which claimed priority of an earlier United States application filed 02 July 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 12 January 2006. The thirty-month period for paying the basic national fee in the United States expired on 02 January 2007.

On 20 December 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 27 April 2007, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 28 June 2007, the international application PCT/EP2005/006956 became abandoned as to the United States for failure to timely respond to the Notification of Missing Requirements.

On 12 April 2011, the applicant responded with an executed declaration of the inventors with a petition under 37 CFR 1.137(b) for revival of the present application.

Application No.: 11/630,600

On 24 May 2011, the this Office mailed a decision in response to the 1.137(b) petition indicating dismissal for failure to provide the required reply under 35 U.S.C. 371. The reply failed to include a declaration in compliance with 37 CFR 1.497(d) as there was a difference in the sixth-inventor's name between the published international application (Ramalingam KONDAREDDIAR) and the declaration of inventors (Kondareddiar RAMALINGAM).

On 01 June 2011, applicant filed the present petition under 37 CFR 1.182 and renewed petition under 37 CFR 1.137(b).

DISCUSSION

I. Petition Under 37 CFR 1.182

MPEP 1893.01(e) states in relevant part, "Where there has been no change of inventorship but the name of an inventor indicated in the international application during the international phase has changed such that the inventor's name is different from the corresponding name indicated in an oath or declaration submitted under 37 CFR 1.497, for example, on account of marriage, then a petition under 37 CFR 1.182 will be required to accept the oath or declaration with the changed name. See MPEP § 605.04(c)." Applicant has submitted an appropriate petition under 37 CFR 1.182 explaining the discrepancy with regard to the sixth inventor's name. Applicant's explanation for the error is accepted.

II. Petition Under 37 CFR 1.137(b)

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer in the application was filed before 08 June 1995.

Applicant previously satisfied items (2), (3), and (4) above.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371 in view of the currently filed petition under 37 CFR 1.182.

Application No.: 11/630,600

CONCLUSION

For the reasons detailed in §I above, applicant's petition under 37 CFR 1.182 is **GRANTED**.

For the reasons detailed in §II above, the renewed petition under 37 CFR 1.137(b) is **GRANTED**.

The application has an International Filing Date under 35 U.S.C. 363 of 28 June 2005, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 12 April 2011.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision.



Shane Thomas
Detailee, Office of PCT Legal Administration
Tel: (571) 272-6095



Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration



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CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON DE 19899

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AUG 16 2010

OFFICE OF PETITIONS

In re Application :
Markus Frank et al. :
Application No. 11/630,655 : DECISION ON APPLICATION
Filed: February 20, 2007 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. 13477-00004-US :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(B) filed June 7, 2010. Applicants request that the patent term adjustment be measured from December 24, 2006, the date the national stage commenced under 35 U.S.C. § 371 (b) or (f) in an international application, and that the patent term adjustment be reconsidered in light of the recent court decision in light of the Court of Appeals for the Federal Circuit's decision in Wyeth v. Kappos, 2009-1120 (Fed. Cir. 1-7-2010).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the patent term adjustment relating to those provisions until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for

continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.¹

To the extent that applicant otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **DISMISSED**.

Applicant is advised that the Office has not failed to recognize that December 24, 2006 is the date of commencement of this application. The date of commencement of the application is not used in calculating patent term adjustment until issuance when the period of Office delay is calculated for the Office taking in excess of three years to issue the patent. On the other hand, the date of completion (or fulfillment of the requirements of 371) of this application is February 24, 2007. (See Notice of Acceptance mailed August 1, 2008). This date was properly used in calculating the period of Office delay pursuant to 37 CFR §§1.702(a)(1) and 1.703(a)(1).

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

¹ For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

A handwritten signature in black ink, appearing to read 'Anthony Knight', with a stylized flourish at the end.

Anthony Knight
Director
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

MAILED

OCT 25 2010

In re Application of
Heihachiro YAMAMOTO, et al.
Application No. 11/630,690
Filed: December 27, 2006
Attorney Docket No. **130761**

: **OFFICE OF PETITIONS**
:
: **DECISION GRANTING PETITION**
: **UNDER 37 CFR 1.313(c)(2)**
:

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 22, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 28, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 3637 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.



13 AUG 2010

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DICKINSON WRIGHT PLLC
INTERNATIONAL SQUARE
1875 EYE STREET NW, SUITE 1200
WASHINGTON, DC 20006

In re Application of:
CHARZINSKI, et al.
U.S. Application No.: 11/630,737
PCT No.: PCT/EP2005/053017
International Filing Date: 28 June 2005
Priority Date: 30 June 2004
Attorney's Docket No.: 119010-00363
For: EFFICIENT CALCULATION OF ROUTING
TABLES FOR ROUTING BASED ON
DESTINATION ADDRESSES

DECISION

This is in response to "Request for Withdrawal as Attorney or Agent and Change of Correspondence Address" filed 31 May 2010 which is being treated as a Petition to Withdraw from Representation under 37 CFR 1.36. No petition fee is required.

DISCUSSION

The criteria for effecting a proper withdrawal of attorney are spelled out in Section 402.06 of the Manual of Patent Examining Procedure (M.P.E.P.) which reads, in part, as follows:

In the event that a notice of withdrawal is filed by an attorney or agent of record . . . appropriate procedure will be followed pertaining to the withdrawal. The withdrawal is effective when approved rather than when received.

To expedite the handling of requests for permission to withdraw as attorney or agent, under 37 CFR 1.36, Form PTO/SB/83 may be used. Because the Office does not recognize law firms, each attorney of record must sign the notice of withdrawal, or the notice of withdrawal must contain a clear indication of one attorney signing on behalf of another.

Since a power of attorney has not been filed appointing the practitioners associated with customer number 87133 in the present application, the request is **DISMISSED AS MOOT**. However, applicant provided an appointment of attorney form on 18 September 2008 accompanied by a statement under 37 CFR 3.73(b). The new power of attorney is recognized and the correspondence address will be update to that of customer number 29177.

CONCLUSION

In view of the above discussion, counsel's Request for Withdrawal is **DISMISSED AS MOOT.**

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

A handwritten signature in black ink, appearing to read 'Derek A. Putonen', with a stylized, cursive script.

Derek A. Putonen
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294



UNITED STATES PATENT AND TRADEMARK OFFICE

13 AUG 2010

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

K&L Gates LLP
P.O. BOX 1135
CHICAGO IL 60690

In re Application of :
CHARZINSKI, et al. :
Application No.: 11/630,737 :
PCT No.: PCT/EP2005/053017 : DECISION ON PAPERS
Int. Filing Date: 28 June 2005 :
Priority Date: 30 June 2004 : UNDER 37 CFR 1.42
Attorney Docket No.: 119010-363 :
For: EFFICIENT CALCULATION OF :
ROUTING TABLES FOR ROUTING :
BASED ON DESTINATION ADDRESSES :

This decision is in response to applicant's declaration and power of attorney filed 14 October 2008. The filed combined declaration and power of attorney is being treated as a request for status under 37 CFR 1.42. No petition fee is due.

BACKGROUND

On 30 September 2008, applicant was mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) advising applicant that the filed declaration was defective and giving applicant one month to file a proper response.

On 14 October 2008, applicant filed the declaration discussed herein.

DISCUSSION

37 CFR 1.42 When the Inventor is Dead, states, in part:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

The declaration submitted on 14 October 2008 is executed by the inventors listed on the published international application. In addition, the document is signed by Susann-Maria Viktoria Mendoza-Reichert. Johann Josef Reichert and Eva Reichert as heirs to the estate of deceased inventor, Christoph Reichert. The declaration provides the citizenship, residence and mailing address for both the deceased inventor and his heirs per 37 CFR 1.497(a)(3). In addition, it is clear from the declaration that the three listed individuals represent all of the heirs. As such, it is proper to grant applicant's request for status pursuant to 37 CFR 1.42.

CONCLUSION

Applicant's request for status under 37 CFR 1.42 is **GRANTED**.

This application has an international application filing date of 28 June 2005 and will be given a date of **14 October 2008** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the DO/EO/US for processing in accordance with this decision.



Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294



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Alexandria, VA 22313-1450
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**LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090**

MAILED
FEB 21 2012
OFFICE OF PETITIONS

In re Application of :
Bernd Paspirgilis :
Application No. 11/630,817 : **DECISION GRANTING PETITION**
Filed: December 27, 2006 : **UNDER 37 CFR 1.313(c)(2)**
Attorney Docket No. AIRBUS 3.3-116 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, February 16, 2012 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 18, 2012 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3727 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.



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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON VA 22201

MAILED

AUG 05 2010

OFFICE OF PETITIONS

In re Application of :
Verge et al. :
Application No. 11/630,828 : **DECISION ON PETITION**
Filed: December 22, 2006 :
Attorney Docket No. HIRSCH-0036 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 8, 2010, to revive the above-identified application.

The petition is **GRANTED**.


The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 3, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 4, 2010. A Notice of Abandonment was mailed June 25, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and fee of \$540, (2) the petition fee of \$1,620, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center AU 1796 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.


Carl Friedman
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/630,865	12/26/2006	Kyoichi Takao	4456-0110PUS1	8949
7590 06/10/2011 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			EXAMINER HORLICK, KENNETH R	
			ART UNIT	PAPER NUMBER
			1637	
			NOTIFICATION DATE	DELIVERY MODE
			06/10/2011	ELECTRONIC

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management



UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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June 8, 2011

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

Re Application of
TAKAO, KYOICHI, ET AL.
Application: 11/630865
Filed: 12/26/2006
Attorney Docket No: 4456-0110PUS1

: **DECISION ON PETITION**
: **ACCEPTANCE OF COLOR**
: **DRAWINGS**

This is a decision on the Renewal of Petition to Accept Color Drawings under 37 C.F.R. 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) December 26, 2006.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings.

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is **GRANTED**.

Telephone inquiries relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Bernadette Queen/
Quality Control Specialist
Office of Data Management
Publications Branch



UNITED STATES PATENT AND TRADEMARK OFFICE

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ROBERT J. DEPKE
LEWIS T. STEADMAN
ROCKEY, DEPKE & LYONS, LLC
SUITE 9390 - WILLIS TOWER
CHICAGO IL 60606-6319

MAILED

APR 09 2012

PCT LEGAL ADMINISTRATION

In re Application of
SAKURA et al.
Application No.: 11/630,939
Filing Date: June 16, 2008
Attorney Docket No.: 075834.00715

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed February 10, 2012, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 10, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned on February 10, 2011.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action mailed November 10, 2010, is accepted as having been unintentionally delayed.

This application is being referred to Technology Center AU 2625 for appropriate action, if any, on the reply in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3301.

/Daniel Stemmer/
Daniel Stemmer
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy



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PANASONIC PATENT CENTER
1130 CONNECTICUT AVENUE NW, SUITE 1100
WASHINGTON DC 20036

AUG 04 2010
DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
IKEDA, WATARU	:	DECISION ON REQUEST TO
Application No. 11/631,204	:	PARTICIPATE IN PATENT
Filed: December 29, 2006	:	PROSECUTION HIGHWAY
Attorney Docket No. P41853-01	:	PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed June 29, 2010.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

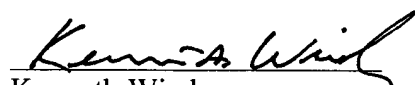
- (1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
- (2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
- (3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
- (4) Examination of the U.S. application has not begun;
- (5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
- (6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
- (7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

A handwritten signature in black ink, appearing to read "Kenneth Wieder", is written over a horizontal line.

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

OK TO ENTER: /D.V./
09/16/2010

11/631259

V5

Wye

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTENTION: HONORABLE COMMISSIONER FOR PATENTS

In re the Patent of: **AOKI, Masaaki**

P.T.O. Confirmation No.: 1798

Patent No. 7,733,090

Issued: **June 8, 2010**

For: **MAGNETIC FIELD GENERATOR**



REQUEST FOR CERTIFICATE OF CORRECTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Mail Stop DAC

August 16, 2010

Sir:

The undersigned requests that a Certificate of Correction be issued for the above-identified patent as indicated on the attached Form PTO-1050.

This request is being made in order to correct the claims of **Letters Patent No. 7,733,090, Column 22, line 65, below "The invention claimed is:", through Column 24, line 46.** This correction is required because the claims were published with **incorrect dependencies due to PTO error** and therefore required rewriting. (For example, independent claim 3 in the patent had no dependent claims.) The attached claims are the correct allowed claims, with corrected dependency.

The Applicant has also rearranged the claims to put the dependent claims in position following their respective independent claims. The claims are otherwise unchanged except for renumbering and the addition of "second" in the last line of claim 12, which is done for improved usage.

A proposed Certificate of Correction is submitted herewith. Because the PTO was at fault, no fee is attached. However, the PTO is authorized to charge any fees needed to enter this paper to **Deposit Account No. 01-2340.**

Respectfully submitted,

KRATZ, QUINTOS & HANSON, LLP

Nick Bromer

Nicholas S. Bromer

Attorney for Applicant

Reg. No. 33,478

NSB/lrj

Atty. Docket No. **060975**
1420 K Street, N.W., 4th Floor
Washington, D.C. 20005
(202) 659-2930



23850

PATENT & TRADEMARK OFFICE

Enclosures: PTO-1050, Copy of Letters Patent 7,733,090-Columns 22-24.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100916

DATE : September 16, 2010

TO SPE OF : ART UNIT 2831

SUBJECT : Request for Certificate of Correction on Patent No.:

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Certificates of Correction Branch - PK 3-910

Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments:

SPE: /Melissa J Koval/Art Unit 2858
Art Unit 2831



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Pearl Cohen Zedek Latzer, LLP
1500 Broadway
12th Floor
New York NY 10036

MAILED

NOV 19 2010

PCT LEGAL ADMINISTRATION

In re Application of	:	
BELSON	:	
U.S. Application No.: 11/631,277	:	DECISION ON PETITION
PCT No.: PCT/US2005/023835	:	
Int. Filing Date: 30 June 2005	:	UNDER 37 CFR 1.137(b)
Priority Date: 30 June 2004	:	
Attorney Docket No.: BEL1126US	:	
For: APPARATUS AND METHODS FOR CAPSULE	:	
ENDOSCOPY OF THE ESOPHAGUS	:	

The petition to revive under 37 CFR 1.137(b) filed 18 February 2010 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

DEC 02 2010

PCT LEGAL ADMINISTRATION

In re Application of :
YUSUDA :
Serial No.: 11/631,363 :
PCT No.: PCT/JP05/012129 :
Int. Filing Date: 30 June 2005 : DECISION
Priority Date: 30 June 2004 :
Atty. Docket No.: 301434US2PCT :
For: ELECTROCHEMICAL CAPACITOR :

This is a decision on applicant's "Request For Corrected Notice of Acceptance" filed in the United States Patent and Trademark Office (USPTO) on 13 November 2010 in the above referenced application. Applicant requests issuance of a new Notification of Acceptance under 35 U.S.C. 371.

BACKGROUND

On 29 December 2006, prior to the thirty month deadline for filing a national stage application, applicant filed a transmittal requesting entry into national stage under 35 U.S.C. 371 along with the basic national filing fee and a declaration executed by the inventors. The thirty month deadline for filing the national stage application would not expire until midnight on 30 December 2006.

On 06 November 2008, a Notification of Acceptance was mailed to applicant indicating that applicant had fulfilled all the requirements of 35 U.S.C. 371 on 12 September 2008 and indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 12 September 2008.

DISCUSSION

A review of the application file reveals that as required by 35 U.S.C. 371(c)(2), an English translation of the international application including the drawings was submitted on 12 September 2008. The date of completion of all 35 U.S.C. 371 requirements includes fulfillment of subsection (b), which states that the national stage shall commence with the expiration of the

time limit under PCT Article 22(a) or 39(1)(a) of the PCT Treaty. The date of completion of all requirements of 35 U.S.C. 371 is 12 September 2008, the date upon which the translation of the drawings was submitted. The Notification of Acceptance (Form PCT/DO/EO/903) issued on 06 November 2008 which indicated this date as 12 September 2008 is correct; moreover, the date applicant fulfilled all the requirements of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) is 12 September 2008 as indicated on the Notification. Thus the Notification of Acceptance is remains in effect.

CONCLUSION

For the reasons set forth above, Applicant's request to correct the Notification of Acceptance and filing receipt is **DISMISSED without prejudice**.

The application will be forwarded to Art Unit 2835 for continued examination.

/Cynthia M. Kratz/

Cynthia M. Kratz

Attorney Advisor

Office of PCT Legal Administration

Telephone: (571) 272-3286

Facsimile: (571)-273-0459



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COMMISSIONER FOR PATENTS
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BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

MAILED

NOV 01 2011

PCT LEGAL ADMINISTRATION

In re Application of	:	
WANG et al.	:	DECISION ON
Application No.: 11/631,421	:	
PCT No.: PCT/JP2005//011	:	
Int. Filing Date: 24 June 2005	:	
Priority Date: 02 July 2004	:	PETITION UNDER
Attorney Docket No.: 2006_222A	:	
For: LUMINESCENT MATERIAL AND...	:	
USING THE SAME	:	37 CFR 1.181

This decision is in response to the "REQUEST FOR REFUND REVERSAL" filed 04 June 2010, which is being treated as a petition under 37 CFR 1.181 to reverse the refund amount of \$800 to deposit account no.: 23-0975 as petitioner paid for 95 extra claims.

BACKGROUND

On 03 January 2007, applicants filed entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), a copy of the English translation of the international application, and an executed declaration. In addition, applicants filed a preliminary amendment for the claims and paid the amount \$4,750.00 for the 95 excess claims at the time of filing.

On 29 August 2008, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification of Insufficient Fees (PCT/DO/EO/923)" indicating fees required for this application is \$2950 for large entity. The total additional claim fee(s) for this application is \$3200 for 159 total claims over 20.

On 10 September 2008, applicants filed a "Response to Notification of Insufficient Fees" indicating that are a total of 115 claims and from this total, 95 claims are in excess of 20.

On 27 October 2009, the USPTO refunded \$800 to applicants' Deposit Account no.: 83-0975.

On 04 June 2010, applicants filed the petition requesting that the refund be reversed as they are 95 excess claims.

On 29 October 2009, the USPTO mailed a "NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 C.F.R. 1.495 (Form PCT/DO/EO/903)," indicating that date of receipt of 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) and the date of completion of all 35 USC 371 requirements is 03 January 2007.

On 20 August 2008, the USPTO mailed a Notification of ABANDONMENT indicating applicants' failure to timely file a proper reply to the Office letter mailed on 03 February 2011.

DISCUSSION

A review of the file reveals that applicants had a total of 115 claims in which 95 were extra claims and that the correct claim fee was \$4,750.00. As a result, the reversal of the refund of \$800.00 is appropriate. Applicant's Deposit Account No.: 83-0975 will be charge \$800.00 so as to bring the total claim fee back to the correct amount of \$4,750.00.

DECISION

The petition under 37 CFR 1.181 is **GRANTED**.



Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459



UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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PAUL K. GODWIN
PAUL K. GODWIN, P.C.
7218 PINE VISTA DR.
BRIGHTON MI 48116

MAILED

JUN 23 2011

OFFICE OF PETITIONS

In re Patent No. 7,631,640 :
Issue Date: December 15, 2009 :
Application No. 11/631,436 :
Filed: January 3, 2007 :
Attorney Docket No. APT 2.011PCT :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed March 14, 2011.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions



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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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THE WEBB LAW FIRM, P.C.
ONE GATEWAY CENTER
420 FT. DUQUESNE BLVD, SUITE 1200
PITTSBURGH, PA 15222

MAILED

JUL 05 2011

OFFICE OF PETITIONS

In re Application of Okita	:	
Application No. 11/631,442	:	Decision on Petition
Filing Date: January 3, 2007	:	
Attorney Docket No. 4605-063963	:	

This is a decision on the petition under 37 CFR 1.181 filed June 6, 2011, requesting the Office withdraw the holding of abandonment.

The petition is **granted**.

The Office mailed a final Office action on March 2, 2010. The Office did not receive a response to the Office action. As a result, the Office mailed a Notice of Abandonment on September 10, 2010.

Petitioner states the Office action was never received and requests withdrawal of the holding of abandonment.

The record is sufficient to demonstrate Petitioner did not receive the March 2, 2010 Office action. Therefore, the Office Action and the holding of abandonment are hereby withdrawn. The Office action will be re-mailed and the period for reply will be re-started. The amendment filed with the petition will not be entered or considered at this time. Petitioner may submit a copy of the amendment in response to the re-mailed Office action if desired.

Technology Center Art Unit 3671 will be informed of the instant decision and the Technology Center's technical support staff will re-mail the March 2, 2010 Office action. The time period to respond to the new Office action will run from the mailing date of the new Office action.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions



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P.O. Box 1450
Alexandria, VA 22313-1450
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CHOATE, HALL & STEWART/CITRIX SYSTEMS, INC.
TWO INTERNATIONAL PLACE
BOSTON MA 02110

MAILED

NOV 26 2010

OFFICE OF PETITIONS

In re Application of

John Kenneth GILBERT, et al

Application No. 11/631,443

Filed: January 3, 2007

Attorney Docket No. 2006982-0004 (MGT-002)

**DECISION ON PETITION
TO WITHDRAW
FROM RECORD**

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed November 10, 2010.

The request is **NOT APPROVED**.

The Office will no longer approve requests from practitioners to withdraw from applications where the requesting practitioner is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have a power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to documents they file.

A review of the file record indicates that Brenda Herschbach Jarrell does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 03/01/12

TO SPE OF : ART UNIT 2836

SUBJECT : Request for Certificate of Correction for Appl. No.: 11631460 Patent No.: 7876544

CofC mailroom date: 02/21/12

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Randolph Square – 9D10-A

Palm Location 7580

You can fax the Directors/SPE response to 571-273-3421

Note: **Should the changes be made?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

/Jared Fureman/

2836

SPE

Art Unit



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date: 04/11/11

Patent No. : 7903700 B1
Ser. No. : 11/631,463
Inventor(s) : Nagai, et al.
Issued : March 08, 2011
Title : Narrow-spectrum laser device
Docket No. : 1110/98890

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing incorrect or erroneous assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 (*see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481*). This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

- A. the processing fee set forth in 37 CFR 1.17(i) (currently \$130);
- B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
- C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

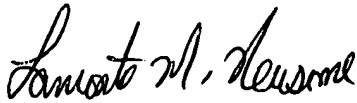
By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently \$100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.



Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

**Husch Blackwell LLP
Husch Blackwell Sanders LLP Welsh & Katz
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO IL 60606**

LMN



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Alexandria, VA 22313-1450
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HUSCH BLACKWELL LLP
HUSCH BLACKWELL SANDERS LLP WELSH & KATZ
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

MAILED

JUL 05 2011

OFFICE OF PETITIONS

In re Patent No. 7,903,700
Issue Date: March 8, 2011
Application No. 11/631,463
Filed: January 3, 2007
Attorney Docket No. 1110/98890

ON PETITION

This is a decision on the petition filed April 21, 2011, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent.

The request is **GRANTED**.

Petitioner states that the correct assignee names are Komatsu Ltd and Ushio Inc. Further, petitioner states that the assignee's names were incorrectly indicated on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent.

Office assignment records reflect that Komatsu Ltd and Ushio Inc were the assignees of record before issuance of the patent. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it is appropriate for a certificate of correction to be processed.

Telephone inquiries concerning this decision may be directed to Alicia Kelley-Collier at (571) 272-6059. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

¹ See MPEP 1309, subsection II; and Official Gazette of June 22, 2004.



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P.O. Box 1450
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Patent No. : 7,710,855 B2
Ser. No. : 11/631,467
Inventor(s) : Yashiro et al.
Issued : May 4, 2010
Title : OPTICAL RECORDING MEDIUM, RECORDING AND REPRODUCING
METHOD THEREOF, AND OPTICAL RECORDING APPARATUS
Docket No. : 2271/77339
Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing *incorrect or erroneous* assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 (*see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481*). This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

- A. the processing fee set forth in 37 CFR 1.17(i) (currently \$130);
- B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
- C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently \$100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) 272-3435 or (703) 756-1814



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COOPER & DUNHAM, LLP
30 ROCKEFELLER PLAZER
20TH FLOOR
NEW YORK NY 10112

MAILED

SEP 12 2011

OFFICE OF PETITIONS

In re Patent No. 7,710,855
Issue Date: May 4, 2010
Application No. 11/631,467
Filed: March 3, 2008
Attorney Docket No. 2271/77339

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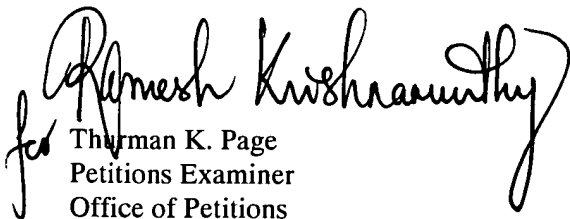
ON PETITION

This is a decision on the petition November 9, 2010, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Diane C. Goodwyn at (571) 272-6735. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.


for Thurman K. Page
Petitions Examiner
Office of Petitions

¹ See MPEP 1309, subsection II; and Official Gazette of June 22, 2004.



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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

MAILED
JUN 22 2011
OFFICE OF PETITIONS

In re Patent No. 7,857,453 :
Application No. 11/631,500 :
Filed: January 3, 2007 :
Issued: December 28, 2010 :
Attorney Docket No. 58990/M521 :

ON PETITION

This is a decision on the petition filed May 18, 2011, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

¹ See MPEP 1309, subsection II; and Official Gazette of June 22, 2004.



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WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington, DC 20005-1503

MAILED
MAR 28 2011
OFFICE OF PETITIONS

In re Patent of Hirose et al.	:	
Patent No. 7,786,093	:	
Issue Date: August 31, 2010	:	Decision on Petition
Application No. 11/631,618	:	
371(c) Date: March 2, 2007	:	
Attorney Docket No. 2006-2080A	:	

This is a decision in response to the paper filed January 4, 2011, and supplemented on February 4, 2011, which is being treated as a request under 37 CFR 3.81(b).

The request under 37 CFR 3.81 is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 3.81(b)."

Pursuant to 37 CFR 3.81(b), a request to have a patent corrected to add, or change, an assignee's name must:

1. State an assignment to the assignee was recorded before issuance of the patent,
2. Include a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a), and
3. Include the fee set forth in 37 CFR 1.17(i).

The instant request does not include the fee set forth in 37 CFR 1.17(i) (\$130). Therefore, the request cannot be granted.

If Patentees wish for the Office to issue the requested certificate of correction, a request for reconsideration of this decision and a payment of the required \$130 fee should be filed.

Further correspondence with respect to this matter may be submitted as follows:

By Internet: A request for reconsideration may be filed electronically using EFS Web.¹
Document Code "PET.OP" should be used if the request is filed electronically.

¹ General Information concerning EFS Web can be found at <http://www.uspto.gov/patents/process/file/efs/index.jsp>.

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney
Steven Brantley at (571) 272-3203.



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions



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MAY 27 2011

OFFICE OF PETITIONS

WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington, DC 20005-1503

In re Patent of Hirose et al.	:	
Patent No. 7,786,093	:	
Issue Date: August 31, 2010	:	Decision on Request
Application No. 11/631,618	:	
371(c) Date: March 2, 2007	:	
Attorney Docket No. 2006-2080A	:	

This is a letter responding to the request filed April 1, 2011, and supplemented on April 7, 2011, which is being treated as a renewed request under 37 CFR 3.81(b).

The request under 37 CFR 3.81 is **GRANTED**.

A paper, which was treated as a request under 37 CFR 3.81(b), was previously filed January 4, 2011. The Office mailed a decision dismissing the request on March 28, 2011. The decision stated,

Pursuant to 37 CFR 3.81(b), a request to have a patent corrected to add, or change, an assignee's name must:

1. State an assignment to the assignee was recorded before issuance of the patent,
2. Include a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a), and
3. Include the fee set forth in 37 CFR 1.17(i).

The instant request does not include the fee set forth in 37 CFR 1.17(i) (\$130). Therefore, the request cannot be granted.

The instant request filed April 1, 2011, included payment of \$100 for the certificate of correction. However, the certificate of correction fee had previously been submitted on January 4, 2011. The required \$130 fee for the request under 37 CFR 3.81(b) was not filed April 1, 2011.

A paper supplementing the instant request was filed April 7, 2011. The paper authorizes the Office to charge \$130 for the required fee for the request under 37 CFR 3.81(b) to Deposit Account No. 23-0975.

The Office has charged \$130 to Deposit Account No. 23-0975.

The \$100 fee submitted on April 1, 2011, will be credited back to the credit card used to pay the \$100 fee.

In view of the receipt of the \$130 fee for the request, the requirements set forth in 37 CFR 3.81(b) have been satisfied and the request is granted.

The Certificates of Correction Branch will be informed of the instant decision and the requested certificate of correction will be issued in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

A handwritten signature in black ink, appearing to read 'C. Brantley', is positioned above the printed name.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

**CERTIFICATION AND REQUEST
FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN** (Page 1 of 2)

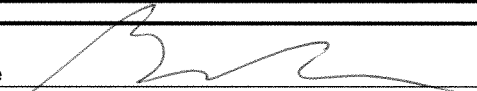
Nonprovisional Application Number or Control Number (if applicable): 11/631,671	Patent Number (if applicable):
First Named Inventor: Tadahiro OHMI	Title of Invention: PROCESSING LIQUID AND PROCESSING METHOD FOR SEMICONDUCTOR DEVICE, AND SEMICONDUCTOR MANUFACTURING APPARATUS

APPLICANT/PATENTEE/REEXAMINATION PARTY HEREBY CERTIFIES AND REQUESTS THE FOLLOWING FOR THE ABOVE-IDENTIFIED APPLICATION/PATENT/REEXAMINATION PROCEEDING.

1. FOR PATENT APPLICATIONS AND REEXAMINATION PROCEEDINGS PENDING IN THE USPTO AS OF MARCH 11, 2011, IN WHICH A COMMUNICATION FROM THE USPTO IS SOUGHT TO BE REMAILED:
 - a. One or more inventors, an assignee, or a correspondence address (for the application/proceeding) is in an area of Japan affected by the earthquake and/or tsunami of March 11, 2011.
 - b. A reply or response to an Office action (final, non-final, or other), a notice of allowance, or other Office notice (hereinafter collectively referred to as "Office communication") is outstanding.
 - c. The statutory or non-statutory time period set for response has not yet expired.
 - d. Withdrawal and reissuance of the Office communication is requested.
 - e. It is acknowledged that if this request is not made within sufficient time so that withdrawal and reissuance of the Office communication occur prior to expiration of the statutory or non-statutory time period (as permitted to be extended under 37 CFR 1.136(a), or as extended under 37 CFR 1.550(c) or 1.956), this request may not be granted.
 - f. The need for the reissuance of the Office communication was due to the effects of the earthquake and/or tsunami of March 11, 2011.
 - g. This request is being sent via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
2. FOR PATENTEES WHO WERE UNABLE TO TIMELY PAY A PATENT MAINTENANCE FEE DURING THE SIX-MONTH GRACE PERIOD FOLLOWING THE WINDOW TO PAY THE MAINTENANCE FEE:
 - a. The original window of time to pay the maintenance fee without the surcharge required by 37 CFR 1.20(h) expired on or after March 11, 2011.
 - b. The delay in paying the fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
 - c. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(h) for paying a maintenance fee during the six-month grace period following the window to pay the maintenance fee.
 - d. This request and payment of the maintenance fee during the six-month grace period following the window to pay the maintenance fee is being mailed to: Director of the United States Patent and Trademark Office, Attn: Maintenance Fee, 2051 Jamieson Avenue, Suite 300, Alexandria, VA 22314; or being transmitted via facsimile to: 571-273-6500.

**CERTIFICATION AND REQUEST
FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN** (Page 2 of 2)

3. FOR PATENTEES WHO NEED TO FILE A PETITION TO ACCEPT A DELAYED MAINTENANCE FEE PAYMENT UNDER 37 CFR 1.378(c):
- The maintenance fee payment was required to have been paid after March 10, 2011.
 - A petition under 37 CFR 1.378(c) (using USPTO form PTO/SB/66 – Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c))) is being promptly filed accompanied by the applicable maintenance fee payment (but not the surcharge under 37 CFR 1.20(i)).
 - The delay in payment of the maintenance fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
 - The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(i) for accepting a delayed maintenance fee payment.
 - It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed by March 11, 2012, in order to be entitled to a waiver of the surcharge under 37 CFR 1.20(i).
 - It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed within twenty-four months from the expiration date of the patent. See 35 U.S.C 41(c).
 - This request and the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) is being submitted via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
4. FOR NONPROVISIONAL PATENT APPLICATIONS FILED WITHOUT AN EXECUTED OATH OR DECLARATION OR PAYMENT OF THE BASIC FILING FEE, SEARCH FEE, AND/OR EXAMINATION FEE:
- The nonprovisional patent application was filed on or after March 11, 2011, and prior to April 12, 2011.
 - The late filing of the oath or declaration or the basic filing fee, search fee, or examination fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
 - The USPTO is requested to *sua sponte* waive the surcharge set forth in 37 CFR 1.16(f) for the late filing of the oath or declaration or basic filing fee, search fee, and/or examination fee.
 - This request, together with the executed oath or declaration or the basic filing fee, search fee, or examination fee, as well as the reply to the Notice to File Missing Parts, is being submitted via EFS-Web or by mail directed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature 	Date March 31, 2011
Name (Print/Typed) George C. Beck	Practitioner Registration Number 38,072
<p>Note: Signatures of all the inventors, § 1.41(b) applicants, or assignees of record of the entire interest or their representative(s), or reexamination requesters at the appeal stage are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.</p>	
<input type="checkbox"/> *Total of _____ forms are submitted.	



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**FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007**

MAILED

APR 05 2011

OFFICE OF PETITIONS

In re Application of :
Ohmi et al. :
Application No. 11/631,671 : **DECISION ON PETITION**
Filed: January 5, 2007 :
Attorney Docket No. 039262-0170 :

This is a decision on the request filed March 31, 2011, seeking relief under the provisions of an announcement by the Under Secretary and Director of the United States Patent and Trademark Office on March 17, 2011, http://www.uspto.gov/patents/announce/japan_relief_2011mar17.pdf, providing relief to inventors and patent owners in areas affected by the earthquake and resulting tsunami of March 11, 2011.

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on January 31, 2011. The instant petition was filed prior to the expiration of the period for reply and the certifications for granting of relief are considered to be met by the submission of the request.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7751. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This application is being referred to the Technology Center, Art Unit 1714 for re-mailing the Office action of January 31, 2011. The period for reply will run from the mailing date of the Office action.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions



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United States Patent and Trademark Office
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NIXON PEABODY LLP
401 9TH STREET NW
SUITE 900
WASHINGTON, DC 20004-2128

MAILED
JAN 31 2011
OFFICE OF PETITIONS
ON PETITION

In re Application of
Ryosuke Watanabe et al
Application No. 11/631,688
Filed: January 5, 2007
Attorney Docket No. 740756-3045

This is a decision on the petition, filed January 28, 2011 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 14, 2011 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1745 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).



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BECK AND TYSVER, P.L.L.C.
2900 THOMAS AVENUE SOUTH
SUITE 100
MINNEAPOLIS, MN 55416

MAILED

SEP 09 2010

OFFICE OF PETITIONS

In re Application of
Kai Desinger, et. al.
Application No. 11/631,836
Filed: October 9, 2007
Attorney Docket No. 3682

:
:
: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3)
: AND 37 CFR 1.55(c)

This is a decision on the renewed petition filed on March 9, 2010 and supplemented on June 23, 2010 and August 31, 2010, which is being treated as petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed nonprovisional and PCT application, and under 35 U.S.C. § 119(a)-(d) for the benefit of priority to a prior-filed foreign application, as set forth in the amendment filed August 31, 2010 and the Application Data Sheet (ADS) filed on March 9, 2010.

It is noted that the petition is not signed by an attorney/agent of record. However, in accordance with 37 CFR 1.34(a), the signature of Max Moskowitz appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Since the above requirements have been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted; and therefore, the petition is **granted**.

As to the benefit claim under 37 CFR 1.55(c):

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

- (1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
- (2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6));
- (3) the surcharge as set forth in 37 CFR 1.17(t);
- (4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and
- (5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

Since all of the above requirements have been satisfied, the late claim for priority under 35 U.S.C. § 119(a)-(d) is accepted and the petition is **granted**.

37 CFR §§ 1.78(a)(3) and 1.55(c) require a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.55(a)(1) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §§ 1.78(a)(3) and 1.55(c). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

A Filing Receipt, which includes the priority claim to the prior-filed applications, is enclosed with this decision.

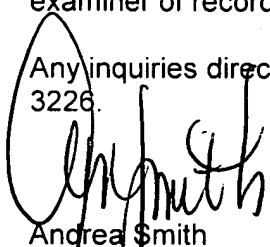
The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) and 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected

Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A courtesy copy of this decision is being mailed to petitioner at the address given in the petition filed on March 9, 2010. Thereafter, all future communications from the Office will be mailed solely to the address of record unless otherwise instructed.

This application is being referred to Technology Center Art Unit 3739 for consideration by the examiner of record of the priority claim under 35 U.S.C. §§ 120, 365(c) and 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to the undersigned at (571) 272-3226.



Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

cc: Max Moskowitz
Ostrolenk Faber, LLP
1180 Avenue of the Americas
New York, NY 10036-8403



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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
11/631,836	10/09/2007	3739	1160	3682	16	2

CONFIRMATION NO. 1598

CORRECTED FILING RECEIPT



0000000043340367

21834
BECK AND TYSVER P.L.L.C.
2900 THOMAS AVENUE SOUTH
SUITE 100
MINNEAPOLIS, MN 55416

Date Mailed: 09/02/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Kai Desinger, Berlin, GERMANY;
Thomas Stein, Berlin, GERMANY;
Andre Roggan, Berlin, GERMANY;

Power of Attorney: The patent practitioners associated with Customer Number 21834

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/EP05/53255 07/07/2005
and is a CIP of 10/806,867 03/23/2004 ABN
which is a DIV of 09/868,303 07/30/2001 PAT 6,723,094
which is a 371 of PCT/EP99/10079 12/17/1999

Foreign Applications

GERMANY 10 2004 033 595.8 07/07/2004
GERMANY 198 58 599.3 12/18/1998

If Required, Foreign Filing License Granted: 12/08/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/631,836**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Bipolare Koagulationselektrode

Preliminary Class

606

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).



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JAN 21 2011
OFFICE OF PETITIONS

LACKENBACH SIEGEL, LLP
LACKENBACH SIEGEL BUILDING
1 CHASE ROAD
SCARSDALE NY 10583

In re Application of :
Sean O'CONNOR :
Application No. 11/631,925 : **DECISION ON PETITION**
Filed: September 11, 2007 :
Docket No. KILBU.P005 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 23, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 28, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 29, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of \$1620; and (3) and the required statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$1110 extension of time fee submitted with the petition on December 23, 2010, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's Deposit Account No. 10-0100.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 3644 for appropriate action by the Examiner in the normal course of business.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions



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**FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, N.W.
WASHINGTON DC 20001-4413**

**MAILED
JAN 09 2012
OFFICE OF PETITIONS**

In re Application of :
Takahiro Fukuhara et al :
Application No. 11/631,941 : DECISION GRANTING PETITION
Filed: January 9, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 09812.0028 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 6, 2012, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 13, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2622 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/631,979	01/09/2007	Michel Pfeffer	BJS-3665-200	9731
23117 7590 03/21/2011 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			EXAMINER AULAKH, CHARANJIT	
			ART UNIT 1625	PAPER NUMBER
			MAIL DATE 03/21/2011	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



United States Patent and Trademark Office

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 21 2011

B. J. Sadoff
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of	:
Pfeffer et al	:Decision on Petition
Serial No.: 11/631,979	:
Filed : 9 January 2007	:
Attorney Docket No.: 3665-200	:

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on 7 July 2010 requesting reconsideration of the lack of unity requirement mailed 27 January 2010. The delay in acting upon this petition is regretted.

BACKGROUND

This application was filed as a national stage of a PCT application and as such is entitled to PCT unity of invention rules.

On 27 January 2010, the examiner set forth a lack of unity requirement which divided claims 1-25 into six groups depending upon the core structure of a compound or group of compounds listed in Claim 17. No prior art was cited in the lack of unity determination to indicate that the same or corresponding technical features failed to make a contribution over the prior art.

On 1 March 2010, applicants elected Group II, with traverse.

On 7 April 2010, the examiner mailed to applicants a non-final Office action in which the traversal was considered, the lack of unity determination was maintained, and the requirement was made final. Claims 1-13 and 25 were object to for containing non-elected subject matter. While the PTOL-326 form indicated that claims 14 and 15 were withdrawn from consideration,

the body of the action is silent as to their treatment. Claims 18-24 were rejected under 35 U.S.C. 112, first paragraph for scope of enablement. Claims 16 and 17 were rejected under 35 U.S.C. 112 second paragraph for indefiniteness. Claim 17 was rejected as follows:

7. Claim 17 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Davydova (Vestnick Moskovskogo Universiteta, cited on applicants form 1449).

Davydova discloses stability and catalytic properties of glucose oxidase from penicillium funiculosum G-15 (see article submitted on March 1, 2010). The metal complex no. 7 (see table 2 on page 369) disclosed by Davydova (see RN 577977-60-7) clearly anticipates the instant claim.

It is noted that a review of the file history fails to identify a reference authored by Davydova submitted on 1 March 2010. Moreover, neither of the two articles submitted on 1 March 2010 are authored by Davydova nor contain a page numbered 369. While the 1449 form filed 9 January 2007 included a reference authored by Davydova, this reference is in Russian; no translation has been made of record. None of the other claims were addressed in term of prior art.

On 7 July 2010, applicants filed a response to the Office action along with this petition.

DISCUSSION

The file history and petition have been considered carefully.

This national stage filing is entitled to PCT Unity of Invention practice with regard to any restriction or election of species requirement. However, the examination of a national stage filing must comport with US practice per 35 U.S.C. 372(a),

All questions of substance and, within the scope of the requirements of the treaty and Regulations, procedure in an international application designating the United States shall be determined as in the case of national applications regularly filed in the Patent and Trademark Office.

PCT Rules 13.2 states that:

With respect to a group of inventions claimed in an international application, unity of invention exists only when there is a technical relationship among the claimed inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" is defined in Rule 13.2 as meaning those technical features that define a contribution which each of the inventions, considered as a whole, makes over the prior art.

1

The criteria for determining the concept of “contribution over the prior art” is further discussed in Chapter 10 of the International Search and Preliminary Examination Guidelines.

At the onset, it is noted that in the restriction requirement, all of the claims were placed in all of the groups. This is counter to MPEP 814:

The examiner must provide a clear and detailed record of the restriction requirement to provide a clear demarcation between restricted inventions so that it can be determined whether inventions claimed in a continuing application are consonant with the restriction requirement and therefore subject to the prohibition against double patenting rejections under 35 U.S.C. 121. *Geneva Pharms. Inc. v. GlaxoSmithKline PLC*, 349 F.3d 1373, 1381, 68 USPQ2d 1865, 1871 (Fed. Cir. 2003). See also MPEP § 804.01.

Applicant elected Group II for examination. The Examiner grouped the claims as follows for Group II in the restriction requirement:

Group II, claim(s) In part 1-25, drawn to Compounds represented by core structure of compound 11 (see claim 17) and pharmaceutical compositions containing these compounds.

Yet in the first action on the merits, Claims 14 and 15 were apparently withdrawn from examination and not treated on the merits without explanation. MPEP 821 provides the following guidance for examiners to follow when withdrawing claims from examination:

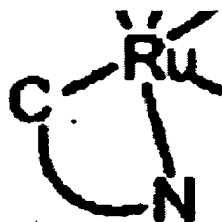
All claims that the examiner holds as not being directed to the elected subject matter are withdrawn from further consideration by the examiner in accordance with 37 CFR 1.142(b). See MPEP § 821.01 through § 821.04. *The examiner should clearly set forth in the Office action the reasons why the claims withdrawn from consideration are not readable on the elected invention.* (Emphasis added)

The Office action mailed 7 April 2010 failed to provide reasons why claims withdrawn from examination are not readable on the elected invention.

Turning now to the merits of the petition, according to Chapter 10 of the ISPE Guidelines, the special technical feature as defined by PCT Rule 13.2 shall be considered to be met when all the alternatives of a Markush-group are of similar nature. For chemical alternatives, such as the claimed peptides, the Markush group shall be regarded as being of similar nature when

- (A) all alternatives have a common property or activity and
- (B)(1) a common structure is present, i.e., a significant structure is shared by all of the alternatives or
- (B)(2) in cases where the common structure cannot be the unifying criteria, all alternatives belong to an art recognized class of compounds in the art to which the invention pertains.

Here, the examiner has maintained the lack of unity by asserting that the compounds have different core structures. In contrast, applicants have asserted that the common moiety of all the compounds is the presence of a metallocycle comprising a Ru-C and Ru-N bonds. Applicants request consideration of the Dupont (Chemical Reviews 2005, 105, 2527-2571) and Djukic (Eur J. Inorg Chem 2009, 817-853) filed on 1 March 2010 which discuss these types of molecules. This is persuasive. All the claimed molecules are metallocycles which share this structure:



Because the members of the Markush group in this 371 application share a general inventive concept, the intraclaim restriction requirement was not warranted. Instead, the examiner should have used Form Paragraph 18.20 to have required a provisional election of species.

Moreover, the examiner has not followed the examination practice for Markush claims. No prior art was cited for Claims 1-13, 16 and 18-25. If the examined embodiments in those claims are free of the prior art, MPEP 803.02 requires extended examination of other embodiments. See;

Following election, the Markush-type claim will be examined fully with respect to the elected species and further to the extent necessary to determine patentability. If the Markush-type claim is not allowable, the provisional election will be given effect and examination will be limited to the Markush-type claim and claims to the elected species, with claims drawn to species patentably distinct from the elected species held withdrawn from further consideration.

Finally, it is noted that the examiner has made an objection to the unexamined subject matter recited in the alternative of claims. This was not warranted. Applicants have a right to retain non-elected embodiments recited in the alternative of a single claim.

DECISION

For these reasons, the petition filed under 37 CFR 1.144 on 7 July 2010 is **GRANTED** follows.

The intraclaim restriction requirement made between Groups I-VI has been withdrawn and replaced with an election of species requirement. Applicant's election of compound 11 will continue to be examined.

The objection to claims 1-13 and 25 for reciting non-elected subject matter has been withdrawn.

The examiner is reminded of MPEP 706.02. "If the document is in a language other than English and the examiner seeks to rely on that document, a translation must be obtained so that the record is clear as to the precise facts the examiner is relying upon in support of the rejection."

The application will be forwarded to the examiner to consider the papers filed 7 July 2010, and to prepare a supplemental Office action addressing Claims 1-25 consistent with this petition decision. Markush claims are to be examined per MPEP 803.02.

Should there be any questions regarding this decision, please contact Quality Assurance Specialist Julie Burke by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-0512 or by Official Fax at 703-272-8300.



Remy Yucel
Director, Technology Center 1600



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GREENBERG TRAURIG LLP (LA)
C/O: GREENBERG TRAURIG LLP CHICAGO OFFICE
77 WEST WACKER DRIVE, SUITE 3100
INTELLECTUAL PROPERTY DEPARTMENT
CHICAGO, IL 60601

MAILED

MAR 22 2011

OFFICE OF PETITIONS

In re Application of
Jeffrey Krantz
Application No. 11/631,984
Filed: January 9, 2007
Attorney Docket No. 37923-10205

DECISION ON PETITION
TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 4, 2011.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on March 10, 2011 the power of attorney to GREENBERG TRAURIG LLP (LA) was revoked by the applicant of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Luce, Forward, Hamilton & Scripps LLP
2050 Main Street, Suite 600
Irvine CA 92614

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/19/11

TO SPE OF : ART UNIT 1632

SUBJECT : Request for Certificate of Correction for Appl. No.: 11632012 Patent No.: 7825232

CofC mailroom date: 02/08/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Randolph Square – 9D10-A

Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Certificates of Correction Branch

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Peter Paras/

1632

SPE

Art Unit



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OCT 29 2010

PCT LEGAL ADMINISTRATION

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of: TOKUMO, Yasuaki, et al. :
U.S. Application No.: 11/632,044 :
PCT No.: PCT/JP2005/014761 :
International Filing Date: 11 August 2005 :
Priority Date: 18 August 2004 :
Attorney Docket No.: 1152-0331PUS1 :
For: IMAGE DATA DISPLAY :
APPARATUS :

DECISION
(37 CFR 1.181)

This decision is issued in response to the "Letter To Correct Official Records" filed 10 June 2010, treated herein as a petition under 37 CFR 1.181 to correct the 35 U.S.C. 371(c) date. No petition fee is required.

BACKGROUND

On 11 August 2005, applicants filed international application PCT/JP2005/014761. The application claimed a priority date of 18 August 2004, and it designated the United States. On 23 February 2006, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submitting the basic national fee was thirty months from the priority date, i.e., 18 February 2007.

On 10 January 2007, applicants filed a Transmittal Letter requesting entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee, an English translation of the international application, an executed declaration, and an express request to begin national stage examination procedures under 35 U.S.C. 371(f).

On 06 August 2007, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and payment of additional fees.

On 14 September 2007, applicants filed a response to the Notification Of Missing Requirements that included the authorization to charge applicants' Deposit Account for any required fees and a copy of the previously filed executed declaration. The response noted that the executed declaration was originally filed herein on 10 January 2007.

On 30 January 2008, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) identifying the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements" and the "Date Of Completion Of All U.S.C. 371 Requirements" as 14 September 2007. Also on 30 January 2008, a filing receipt was issued that identified the 35 U.S.C. 371(c) date as 14 September 2007.

On 03 May 2010, a "Notice Of Allowance And Fee(s) Due" (Form PTOL-85) and a "Notice Of Allowability" (Form PTOL-37) were issued.

On 10 June 2010, applicants filed the Letter To Correct Official Records" considered herein as a petition under 37 CFR 1.181.

On 03 August 2010, applicants submitted payment of the Issue and Publication fees.

DISCUSSION

A review of the application file confirms that the executed declaration that completed the requirements of 35 U.S.C. 371(c) was first filed herein with the initial national stage materials filed on 10 January 2007. The correct "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements" and "Date Of Completion Of All U.S.C. 371 Requirements" for the present application is therefore 10 January 2007, as asserted by applicants in the present petition.

Based on the above, the Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt mailed 30 January 2008, both of which incorrectly identified the 35 U.S.C. 371(c) date as 14 September 2007, are appropriately vacated. A corrected Notification Of Acceptance and filing receipt will be issued which properly identify the 35 U.S.C. 371(c) date as 10 January 2007, and USPTO records will be updated accordingly.

CONCLUSION

The petition under 37 CFR 1.181 to correct the 35 U.S.C. 371(c) date is **GRANTED**.

The Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt mailed 30 January 2008 are hereby **VACATED**.

This application is referred to the National Stage Processing Branch of the Office of PCT Operations for processing in accord with this decision, including updating USPTO records and issuing a corrected Notification of Acceptance (Form PCT /DO/EO/903) and filing receipt which properly identify the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements" and the "Date Of Completion Of All U.S.C. 371 Requirements" as **10 January 2007**.

/RichardMRoss/

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459



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 Alexandria, Virginia 22313-1450
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* BI BDATASHEET*

CONFIRMATION NO. 1680

Bib Data Sheet

SERIAL NUMBER	FILING OR 371 (c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
11/632,072	06/03/2008	424	1657	041094-5032
RULE				

APPLICANTS

Kunio Suzuki, Tokyo, JAPAN;
 Tadashi Nagashima, Aichi, JAPAN;
 Shinya Nagahashi, Aichi, JAPAN;

** CONTINUING DATA *****

This application is a 371 of PCT/JP05/12869 07/12/2005

** FOREIGN APPLICATIONS *****

JAPAN 2004-207885 07/14/2004

IF REQUIRED, FOREIGN FILING LICENSE
GRANTED ** 06/22/2008

Foreign Priority claimed	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	STATE OR COUNTRY JAPAN	SHEETS DRAWING 0	TOTAL CLAIMS 8	INDEPENDENT CLAIMS 2
35 USC 119 (a-d) conditions met	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> Met after				
Verified and Acknowledged	Allowance /HERBERT J. LILLING/ 04-12-2011 /HJL/ Examiner's Signature Initials				

ADDRESS

9629

TITLE

Process for Production of 5-Ene-3-One or 3,6-Dione Derivatives of Sterols, Processes for Production of Lipid Metabolism Improvers, Foods, Drinks, and Animal Feeds, and Analytical Method

FILING FEE
RECEIVED

1030

FEES: Authority has been given in Paper
 No. _____ to charge/credit DEPOSIT ACCOUNT
 No. _____ for following:

- ☐ All Fees
- ☐ 1.16 Fees (Filing)
- ☐ 1.17 Fees (Processing Ext. of time)
- ☐ 1.18 Fees (Issue)
- ☐ Other _____
- ☐ Credit



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/632,072	06/03/2008	Kunio Suzuki	041094-5032	1680

9629 7590 07/18/2011
MORGAN LEWIS & BOCKIUS LLP (WA)
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

EXAMINER

LILLING, HERBERT J

ART UNIT	PAPER NUMBER
1657	

MAIL DATE	DELIVERY MODE
07/18/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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JUL 18 2011

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MORGAN LEWIS & BOCKIUS LLP (WA)
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

In re Application of	:	DECISION ON REQUEST TO
SUZUKI ET AL.	:	PARTICIPATE IN PATENT
Application No. 11/632,072	:	PROSECUTION HIGHWAY
Filed: June 3, 2008	:	PROGRAM AND PETITION
Attorney Docket No. 041094-5032	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(a)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(a), filed November 16, 2010, to make the above-identified application special.

The request and petition are **DISMISSED**.

A grantable request to participate in the PPH program and petition to make special require:

- (1) The U.S. application is (a) a Paris Convention application which either (i) validly claims priority under 35 U.S.C. 119(a) and 37 CFR 1.55 to one or more applications filed in the JPO, or (ii) validly claims priority to a PCT application that contains no priority claims, or (b) a national stage application under the PCT (an application which entered the national stage in the U.S. from a PCT international application after compliance with 35 U.S.C. 371), which PCT application (i) validly claims priority to an application filed in the JPO, or (ii) validly claims priority to a PCT application that contains no priority claims, or (iii) contains no priority claim, or (c) a so-called bypass application filed under 35 U.S.C. 111(a) which validly claims benefit under 35 U.S.C. 120 to a PCT application, which PCT application (i) validly claims priority to an application filed in the JPO, or (ii) validly claims priority to a PCT application that contains no priority claims, or (iii) contains no priority claim;
- (2) The JPO application(s) have at least one claim that was determined by the JPO to be allowable/patentable;
- (3) All the claims in each U.S. application for which a request for participation in the PPH program is made must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claims in the JPO application(s);
- (4) Examination of the U.S. application has not begun;
- (5) Applicant must submit a copy of the Office action from the JPO application just prior to the "Decision to Grant a Patent" (e.g., the latest "Notification of Reasons for Refusal") from each of the JPO application(s) containing the allowable/patentable claims that are the basis for the

request, along with an English translation thereof and a statement that the English translation is accurate;

(6) Applicant must submit a copy of the allowable/patentable claims from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;

(7) Applicant must submit a claim correspondence table in English; and

(8) Applicant must submit an information disclosure statement (IDS) listing the documents cited by the JPO examiner in the JPO office action (unless such an IDS has already been filed in the U.S. application).

The request to participate in the PPH program and petition fails to comply with the requirement because:

a Notice of Allowance was mailed on April 28, 2011.

Telephone inquiries concerning this decision should be directed to Cecilia Tsang at 571-272-0562.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.



Cecilia Tsang
Supervisory Patent Examiner
TC 1600



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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314-1176

MAILED

NOV 22 2010

In re Application of : OFFICE OF PETITIONS
Bart Beernaert :
Application No. 11/632,211 : DECISION GRANTING PETITION
Filed: January 11, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. BEER3002/JEK :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 19, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 18, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3765 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.



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DAVIDSON BERQUIST JACKSON & GOWDEY LLP
4300 WILSON BLVD., 7TH FLOOR
ARLINGTON VA 22203

MAILED

AUG 09 2010

OFFICE OF PETITIONS

In re Application of :

STILES, Terry J. et al :

Application No. 11/632,353 :

Filed: June 26, 2008 :

Attorney Docket No. 2691-0003 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 11, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Brian Siritzky on behalf of all attorneys of record who are associated with customer No. 42624. All attorneys/agents associated with the Customer Number 42624 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **TERRY SPARKS**
621-8TH AVENUE SW
CALGARY AB T29 0W9
CANADA



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Paper No.

King & Spalding LLP
P.O. Box 889
Belmont CA 94002-0889

MAILED

NOV 03 2011

In re Application of : **OFFICE OF PETITIONS**
Hirochika et al. :
Application No. 11/632,398 : **LETTER REGARDING**
Filed: September 8, 2008 : **PATENT TERM ADJUSTMENT**
Attorney Docket No. 59150-8039 :
Title: NOVEL GENE REGULATING :
TILLERING AND LEAF MORPHOLOGY IN :
PLANT AND UTILIZATION OF THE SAME:

This is a decision on the "STATEMENT OF FACTS UNDER 37 C.F.R. § 1.705(b)(2) IN SUPPORT OF REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed October 18, 2011. Applicants submit that the correct patent term adjustment to be indicated on the patent is at least seven hundred and nine (709) days, not one hundred and eighty-eight (188) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction partly on the basis that the Office will take in excess of three years to issue this patent. Applicants further dispute one period of reduction.

The request for reconsideration of the patent term adjustment is **GRANTED to the extent** that the Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **one hundred and ninety (190)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

A Notice of Allowance and Issue Fee Due was mailed on July 21, 2011, with an indication that the patent term adjustment to date was 188 days.

The record supports a conclusion that any patent issuing from this patent is not subject to a terminal disclaimer.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Regarding the period of reduction that is in dispute, Applicants dispute the period of reduction of 2 days entered for applicant delay, pursuant to 35 U.S.C. § 154(b)(2)(C) and 37 CFR 1.704(b). This reduction has been reconsidered, and it is determined that entry of a reduction for this reply timely filed pursuant to 35 U.S.C. § 21(b) is not warranted. Accordingly, the period of reduction of 2 days is being removed.

Regarding the Office's failure to issue the patent within 3 years of the commencement of the national stage, this issue is dismissed as premature.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, Applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR

1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, Applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is one hundred and ninety (190) days (190 days of Office delay minus 0 days of Applicant delay).

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

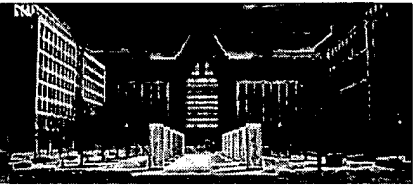


Paul Shanoski
Senior Attorney
Office of Petitions

Enclosure: Copy of updated PAIR screen



Patent Term Adjustments



PTA/PTE Information Patent Term Adjustment Patent Term Extension

Application Number*: 11632398

[Explanation of PTA Calculation](#)

[Explanation of PTE Calculation](#)

PTA Calculations for Application: 11632398

Application Filing Date	09/08/2008	Overlapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays	190
A Delays	190	PTO Manual Adjustment	2
B Delays	0	Applicant Delay (APPL)	2
C Delays	0	Total PTA (days)	190

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
73	10/26/2011		P028	Adjustment of PTA Calculation by PTO	2	0	
61	07/21/2011		MN/=	Mail Notice of Allowance		0	
56	07/20/2011		IREV	Issue Revision Completed		0	
55	07/20/2011		DVER	Document Verification		0	
54	07/20/2011		N/=	Notice of Allowance Data Verification Completed		0	
53	07/20/2011		DOCK	Case Docketed to Examiner in GAU		0	
60	07/12/2011		OAR	Office Action Review		0	
59	07/12/2011		OAR	Office Action Review		0	
58	07/12/2011		OAR	Office Action Review		0	
57	07/12/2011		OAR	Office Action Review		0	
52	07/12/2011		EX.R	Reasons for Allowance		0	
51	07/12/2011		EX.A	Examiner's Amendment Communication		0	
50	07/12/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)		0	
49	07/12/2011		CNTA	Allowability Notice		0	
48	05/10/2011		FWDX	Date Forwarded to Examiner		0	
45	05/05/2011		CRFE	CRF Is Good Technically / Entered into Database		0	
47	04/29/2011		A...	Response after Non-Final Action		0	
44	03/30/2011	01/23/2011	MCTMS	Mail Miscellaneous Communication to Applicant	66	40	
43	03/28/2011		OAR	Office Action Review		0	
42	03/28/2011		CTMS	Miscellaneous Action with SSP		0	
41	03/16/2011		FWDX	Date Forwarded to Examiner		0	
37	09/28/2010		CRFD	CRF Is Flawed Technically / Not Entered into Database		0	
40	09/23/2010		A...	Response after Non-Final Action		0	
38	09/23/2010		CRFL	CRF Disk Has Been Received by Preexam / Group / PCT		0	
36	08/25/2010		MCTMS	Mail Miscellaneous Communication to Applicant		0	
35	08/24/2010		CTMS	Miscellaneous Action with SSP		0	
34	06/30/2010		CRFD	CRF Is Flawed Technically / Not Entered into Database		0	
33	06/15/2010		FWDX	Date Forwarded to Examiner		0	
32	06/14/2010	06/12/2010	A...	Response after Non-Final Action		2	31
31	03/12/2010	11/08/2009	MCTNF	Mail Non-Final Rejection	124	19	
30	03/11/2010		CTNF	Non-Final Rejection		0	
25	02/01/2010		PA..	Change in Power of Attorney (May Include Associate POA)		0	
24	01/29/2010		C.AD	Correspondence Address Change		0	
23	11/13/2009		EML_NTR	Email Notification		0	
22	11/12/2009		PG-ISSUE	PG-Pub Issue Notification		0	
21	08/18/2009		DOCK	Case Docketed to Examiner in GAU		0	
20	08/14/2009		OIPE	Application Dispatched from OIPE		0	
18	08/05/2009		PGPC	Sent to Classification Contractor		0	
17	08/05/2009		FLRCPT.O	Filing Receipt		0	
16	08/05/2009		M903	Notice of DO/EO Acceptance Mailed		0	
9	10/20/2008		CRFE	CRF Is Good Technically / Entered into Database		0	
19	09/08/2008		371COMP	371 Completion Date		0	
15	09/08/2008		ADDFLFE	Additional Application Filing Fees		0	
14	09/08/2008		CRFL	CRF Disk Has Been Received by Preexam / Group / PCT		0	
11	09/08/2008		PREAMND	Preliminary Amendments		0	
10	09/08/2008		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applicant		0	
0.5	07/15/2004		NEFILE	International Filing date		0	

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APR 03 2012

OFFICE OF PETITIONS

King & Spalding LLP
P.O. Box 889
Belmont CA 94002-0889

In re Patent No. 8,076,547 : DECISION ON REQUEST
Hirochika et al. : FOR
Issue Date: December 13, 2011: RECONSIDERATION OF
Application No. 11/632,398 : PATENT TERM ADJUSTMENT
Filed: September 8, 2008 :
Atty Docket No. 59150-8039 :

This is a decision on the petition filed on February 14, 2012, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected from seven hundred and eight (708) days to seven hundred and twenty-seven (727) days.

The petition is **DISMISSED AS UNTIMELY.**

37 CFR 1.705(d) sets forth, *in toto*:

If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued (emphasis added) and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues.

This patent issued on December 13, 2011 with a patent term adjustment of 708 days. The two-month anniversary of the issuance of this patent is February 13, 2012, and it is noted this day fell on a Monday that was not a Federal Holiday. As such, the last day on which this petition could have been filed

was February 13, 2012. Since this petition was filed on February 14, 2012, it must be dismissed as untimely.

It is noted the fourth page of this petition contains the date "13 February 2012" next to Petitioner's electronic signature. However, Office records show it was received on February 14, 2012, and the electronic file contains an Electronic Acknowledgement Receipt which shows a receipt date of "14-FEB-2012" at 02:59:24. The date which appears on the petition is not more persuasive than both Office records and the Electronic Acknowledgement Receipt, and as such, this petition was not submitted in a timely manner.

The \$200.00 fee set forth in 37 CFR 1.18(e) has not been received, and is not required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3225.



Paul Shanowski
Senior Attorney
Office of Petitions

**CERTIFICATION AND REQUEST
FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN** (Page 1 of 2)

Nonprovisional Application Number or Control Number (if applicable): 11/632,419	Patent Number (if applicable):
First Named Inventor: Chikatsugu SUGIYAMA	Title of Invention: HEALTH FOOD

**APPLICANT/PATENTEE/REEXAMINATION PARTY HEREBY CERTIFIES AND REQUESTS THE
FOLLOWING FOR THE ABOVE-IDENTIFIED APPLICATION/PATENT/REEXAMINATION PROCEEDING.**

1. FOR PATENT APPLICATIONS AND REEXAMINATION PROCEEDINGS PENDING IN THE USPTO AS OF MARCH 11, 2011, IN WHICH A COMMUNICATION FROM THE USPTO IS SOUGHT TO BE REMAILED:
 - a. One or more inventors, an assignee, or a correspondence address (for the application/proceeding) is in an area of Japan affected by the earthquake and/or tsunami of March 11, 2011.
 - b. A reply or response to an Office action (final, non-final, or other), a notice of allowance, or other Office notice (hereinafter collectively referred to as "Office communication") is outstanding on March 11, 2011.
 - c. The statutory or non-statutory time period set for response has not yet expired.
 - d. Withdrawal and reissuance of the Office communication is requested.
 - e. It is acknowledged that if this request is not made within sufficient time so that withdrawal and reissuance of the Office communication occur prior to expiration of the statutory or non-statutory time period (as permitted to be extended under 37 CFR 1.136(a), or as extended under 37 CFR 1.550(c) or 1.956), this request may not be granted.
 - f. The need for the reissuance of the Office communication was due to the effects of the earthquake and/or tsunami of March 11, 2011.
 - g. This request is being sent via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
2. FOR PATENTEES WHO WERE UNABLE TO TIMELY PAY A PATENT MAINTENANCE FEE DURING THE SIX-MONTH GRACE PERIOD FOLLOWING THE WINDOW TO PAY THE MAINTENANCE FEE:
 - a. The original window of time to pay the maintenance fee without the surcharge required by 37 CFR 1.20(h) expired on or after March 11, 2011.
 - b. The delay in paying the fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
 - c. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(h) for paying a maintenance fee during the six-month grace period following the window to pay the maintenance fee.
 - d. This request and payment of the maintenance fee during the six-month grace period following the window to pay the maintenance fee is being mailed to: Director of the United States Patent and Trademark Office, Attn: Maintenance Fee, 2051 Jamieson Avenue, Suite 300, Alexandria, VA 22314; or being transmitted via facsimile to: 571-273-6500.

**CERTIFICATION AND REQUEST
FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN** (Page 2 of 2)

3. FOR PATENTEES WHO NEED TO FILE A PETITION TO ACCEPT A DELAYED MAINTENANCE FEE PAYMENT UNDER 37 CFR 1.378(c):
- The maintenance fee payment was required to have been paid after March 10, 2011.
 - A petition under 37 CFR 1.378(c) (using USPTO form PTO/SB/66 – Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c))) is being promptly filed accompanied by the applicable maintenance fee payment (but not the surcharge under 37 CFR 1.20(i)).
 - The delay in payment of the maintenance fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
 - The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(i) for accepting a delayed maintenance fee payment.
 - It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed by March 11, 2012, in order to be entitled to a waiver of the surcharge under 37 CFR 1.20(i).
 - It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed within twenty-four months from the expiration date of the patent. See 35 U.S.C 41(c).
 - This request and the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) is being submitted via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
4. FOR NONPROVISIONAL PATENT APPLICATIONS FILED WITHOUT AN EXECUTED OATH OR DECLARATION OR PAYMENT OF THE BASIC FILING FEE, SEARCH FEE, AND/OR EXAMINATION FEE:
- The nonprovisional patent application was filed on or after March 11, 2011, and prior to April 12, 2011.
 - The late filing of the oath or declaration or the basic filing fee, search fee, or examination fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
 - The USPTO is requested to *sua sponte* waive the surcharge set forth in 37 CFR 1.16(f) for the late filing of the oath or declaration or basic filing fee, search fee, and/or examination fee.
 - This request, together with the executed oath or declaration or the basic filing fee, search fee, or examination fee, as well as the reply to the Notice to File Missing Parts, is being submitted via EFS-Web or by mail directed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature <u>/Chao Gao/</u> 2011.04.15 14:31:18 -04'00'	Date <u>April 15, 2011</u>
Name (Print/Typed) <u>Chao Gao</u>	Practitioner Registration Number <u>65,313</u>
Note: Signatures of all the inventors, § 1.41(b) applicants, or assignees of record of the entire interest or their representative(s), or reexamination requesters at the appeal stage are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.	
<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.	



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WENDEROTH, LIND & PONACK, L.L.P.
1030 15TH STREET, N.W.,
SUITE 400 EAST
WASHINGTON DC 20005-1503

MAILED

APR 21 2011

OFFICE OF PETITIONS

In re Application of
Chikatsugu Sugiyama
Application No. 11/632,419
Filed: February 25, 2008
Attorney Docket No. 2006_1725A

:
:
: **DECISION ON PETITION**
:
:

This is a decision on the request filed April 15, 2011, seeking relief under the provisions of an announcement by the Under Secretary and Director of the United States Patent and Trademark Office on March 17, 2011, http://www.uspto.gov/patents/announce/japan_relief_2011mar17.pdf, providing relief to inventors and patent owners in areas affected by the earthquake and resulting tsunami of March 11, 2011.

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on December 21, 2010. The instant petition was filed prior to the expiration of the period for reply and the certifications for granting of relief are considered to be met by the submission of the request.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This application is being referred to the Technology Center, Art Unit 1789 for re-mailing the Office action of December 21, 2010. The period for reply will run from the mailing date of the Office action.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions



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MICHAEL L. DUNN
SIMPSON & SIMPSON, PLLC
5555 MAIN STREET
WILLIAMSVILLE NY 14221

MAILED
FEB 04 2011
OFFICE OF PETITIONS

In re Application of :
Pandey et al. :
Application No. 11/632433 : DECISION ON PETITION
Filing or 371(c) Date: 08/07/2008 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. RPP178US :

This is a decision on the "Petition Under 37 CFR 1.78(a)(6) and 35 U.S.C. 119(e)(1) for benefit of Priority Date of Prior Filed Provisional Application," filed October 29, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed 37 CFR 1.312 Amendment. The petition is properly treated under 37 CFR 1.78(a)(6).

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(6) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 119 and 37 CFR 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled

to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119 and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Derek Woods at (571) 272-3232. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1624 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.



Christopher Bottorff
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
11/632,433	08/07/2008	1624	670	RPP178US	8	2

CONFIRMATION NO. 5736

CORRECTED FILING RECEIPT



OC000000045763884

49003
MICHAEL L. DUNN
SIMPSON & SIMPSON, PLLC
5555 MAIN STREET
WILLIAMSVILLE, NY 14221

Date Mailed: 01/31/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Ravindra K. Pandey, Williamsville, NY;
Yihui Chen, Amherst, NY;
William Potter, East Amherst, NY;
Allan Oseroff, Buffalo, NY;

Assignment For Published Patent Application

HEALTH RESEARCH, INC., Buffalo, NY

Power of Attorney: The patent practitioners associated with Customer Number 49003

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US2005/024782 07/13/2005
which claims benefit of 60/588,876 07/16/2004

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see <http://www.uspto.gov> for more information.)

If Required, Foreign Filing License Granted: 11/03/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/632,433**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

ADDUCT OF FLUORESCENT DYE AND TUMOR AVID TETRAPYRROLE

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:1110

DATE : October 31, 2011

TO SPE OF : ART UNIT 2833

SUBJECT : Request for Certificate of Correction on Patent No.: 8025537

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Certificates of Correction Branch - ST (South Tower) 9A22

Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments:

/renee s luebke/
Renee Luebke - SPE - AU 2833



UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date : 9/12/2011
Patent No. : 7,938,151 B2
Serial No. : 11/632,534
Inventor(s) : Höckner
Issue Date : May 10, 2011
Title : SAFETY DEVICE TO PREVENT OVERFILLING
Doc./File No. : 23818

Re: Consideration for Certificate of Correction

Consideration has been given your request for a certificate of correction, for the above-identified patent under the provisions of Rule 1.322.

Respecting the alleged error(s) in your request, inspection of the file of the application for the patent reveals that the PCT date, is/are printed in accordance with the record in the Patent and Trademark Office, as passed to issued by the examiner. There being no fault on the part of the Patent and Trademark Office, it has no authority to issue a certificate of correction under the provision of 1.322. Therefore, no correction is in order here.

In view of the foregoing, your request in this matter is denied.

Further consideration will be given concerning this matter upon receipt of a request for **Reconsideration** (reconsideration should be accompanied by supporting document(s) such as, amendment, postcard receipt, 1449/892, etc.) and should be filed and directed to Decisions & Certificates of Correction Branch accompanied by the appropriate fee of \$100.00.

Ernest C. White, *LIE* (571) 572-3385
Mary F. Diggs, *Supervisor* (703) 756-1580
Decisions & Certificates of Correction Branch
ernest.white@uspto.gov

KF ROSS PC
311 East York Street
Savannah GA 31401

ECW



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DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON DC 20005-1209

MAILED

APR 12 2011

OFFICE OF PETITIONS

In re Patent No. 7,836,721 :
Issue Date: November 2010 :
Application No. 11/632,650 : **DECISION ON PETITION**
Filed: January 16, 2007 :
Attorney Docket No. 47237-5012-00 (235822) :

This is a decision on the petition, filed, March 16, 2011, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent to be issued from the above-identified application.

The request is **GRANTED**.

Petitioner states that the correct assignee's names are "Suntory Holdings Limited, Osaka-shi, Osaka (JP) and Mayekawa MFG. CO., LTD., Osaka-shi, Osaka (JP)" and that only one of the assignee's names was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

37 CFR 3.81(b), effective June 25, 2004, reads:

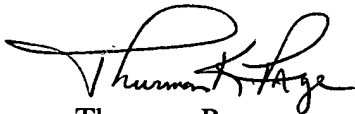
After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter

¹ See MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that "Suntory Holdings Limited, Osaka-shi, Osaka (JP) and Mayekawa MFG. CO., LTD., Osaka-shi, Osaka (JP)" is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Inquiries concerning this decision should be directed to the Michelle R. Eason at (571) 272-4231. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

A handwritten signature in black ink, appearing to read "Thurman Page", with a stylized flourish at the end.

Thurman Page
Petitions Examiner
Office of Petitions



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July 12, 2011

Mercedes K. Meyer
Drinker Biddle & Reath LLP
1500 K Street, N.W., Suite 1100
Washington, DC 20005-1209

Patent No. : 7,836,721 B2
Appl. No. : 11/632,650
Inventor(s) : Yoshinori Nishiwaki, et al.
Issued : November 23, 2010
Title : **COOLING SYSTEM**
Docket No. : 047237-5012 (235822)

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 (*see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481*). This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A petition to correct the Assignee under 37 CFR 3.81(b) should include:

- A. the processing fee set forth in 37 CFR 1.117(h) (currently \$130);
- B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
- C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: Customer Service Window
 Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By fax: (571) 273-8300
 ATTN: Office of Petitions

If a fee (currently \$100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

/Virginia Tolbert/
Virginia Tolbert
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571) 272-0460

vt



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON DC 20005-1209

MAILED

SEP 30 2011

OFFICE OF PETITIONS

In re Patent No. 7,836,721	:	
Issue Date: November 2010	:	
Application No. 11/632,650	:	DECISION ON PETITION
Filed: January 16, 2007	:	
Attorney Docket No. 47237-5012-00 (235822)	:	

This is a decision on the petition filed, September 12, 2011, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent to be issued from the above-identified application.

The request is **GRANTED**.

Petitioner states that the correct city for assignee "Mayekawa MFG. CO., LTD." is "**Tokyo (JP)**" and that an incorrect city was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

37 CFR 3.81(b), effective June 25, 2004, reads:

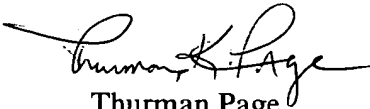
After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter

¹ See MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that "Suntory Holdings Limited, Osaka-shi, Osaka (JP) and Mayekawa MFG. CO., LTD., Tokyo (JP)" are the assignees of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Inquiries concerning this decision should be directed to the Michelle R. Eason at (571) 272-4231. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.


Thurman Page
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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J-TEK LAW PLLC
601 PENNSYLVANIA AVENUE, NW
SUITE 900, SOUTH BUILDING
WASHINGTON DC 20004

MAILED

JUL 11 2011

OFFICE OF PETITIONS

In re Application of	:	
Harlass	:	
Application No. 11/632,782	:	DECISION
Filed/Deposited: 18 January, 2007	:	
Attorney Docket No. HAR001-00079	:	

This is a decision on the papers filed on 28 June, 2011, considered as a petition pursuant to 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition pursuant to 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. §1.181."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing requirements for relief pursuant to 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the final Office action mailed on 2 December, 2010, with reply due absent extension of time on or before 2 March, 2011.

On 1 February, 2011, Petitioner filed an after-final amendment which the Examiner refused to enter and Petitioner—as one registered to practice before the Office—knew was not as of right and not a proper reply¹ if it did not *prima facie* place the application in condition for allowance, and on 8 February, 2011, the Examiner mailed an Advisory Action.

On 10 February, 2011, Petitioner filed a second after-final amendment, which the Examiner refused to enter and Petitioner—as one registered to practice before the Office—knew was not as of right and not a proper reply if it did not *prima facie* place the application in condition for allowance, and on 23 February, 2011, the Examiner mailed an Advisory Action.

On 23 February, 2011, Petitioner filed a third after-final amendment, which the Examiner refused to enter and Petitioner—as one registered to practice before the Office—knew was not as of right and not a proper reply if it did not *prima facie* place the application in condition for allowance, and on 7 March, 2011, the Examiner mailed an Advisory Action. (In the meantime, on 1 March, 2011, Petitioner also made request of refund of certain fees, which was granted in part and denied in part on 16 March, 2011.)

On 27 April, 2011, Petitioner:

- made demand of the Director's intervention with a petition pursuant to 37 C.F.R. §1.181, which petition (does not and) did not toll the period for reply; and
- filed a request and fee for extension of time and a fourth after-final amendment, which the Examiner refused to enter.

The application went abandoned by operation of law after midnight 2 May, 2011.

On 2 June, 2011, Petitioner submitted what he averred to be an "Interview Summary," but which did little more than set out purported actions/inactions of the Technology Center/AU Supervisory Patent Examiner and the Examiner's refusal to enter the after-final amendment. Petitioner is cautioned in this regard because Petitioner, as one registered to practice before the Office is aware that all practice before the Office is in writing (see: 37 C.F.R. §1.2²) and the proper

¹ A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission under 37 C.F.R. §1.114). (See: MPEP §711.03(c).)

² The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.

authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s)/inaction(s).

The Office mailed the Notice of Abandonment on 28 June, 2011.

On 28 June, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181—but with no showing save that he filed a series of after-final amendments, all of which the Examiner has refused to enter.

(It is noted that, as of this writing the Examiner has not indicated an intent to enter any of the four (4) after-final amendments.)

Thus, Petitioner has failed to satisfy the requirements under the Rule, and so has not satisfied the showing under the Rule.

The guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to timely filing:

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and

MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512.³

A Petitioner unable to comply with and/or otherwise satisfy these requirements may wish to revive the application: Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See:

http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation—since all owe to the Office the continuing duty to disclose.⁴

³ See: MPEP §711.03(c) (I)(B).

⁴ See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18 (formerly 37 C.F.R. §10.18) to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.^{5,6}

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.⁷

⁵ See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

⁶ The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a). And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.)

⁷ In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Application No. 11/632,782

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears not to have made the showing required.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner pursuant to 37 C.F.R. §1.137(b) requesting revival of an application abandoned due to unintentional delay. (See:
http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that “the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.” (The statement is in the form available online.)

Petitioner is cautioned that the failure to file timely a petition pursuant to 37 C.F.R. §1.137(b) seeking to revive an application abandoned due to unintentional delay may be considered *indicia* of delay that is other than unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450


By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street

Application No. 11/632,782

Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2⁸) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).


/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

⁸ The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.



UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON DC 20004

MAILED

JUL 28 2011

OFFICE OF PETITIONS

In re Application of
Harlass
Application No. 11/632,782
Filed/Deposited: 18 January, 2007
Attorney Docket No. HAR001-00079

:
:
: DECISION
:
:

This is a decision on the papers filed on 20 July, 2011, considered as a petition pursuant to 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

NOTE:

For Petitioner's information, it appears from the record that Petitioner may have mistakenly directed this petition on EFS deposit to the Technology Center for the Special Programs Examiner (PET SPRE) rather than to the Office of Petitions. Doing so may delay resolution of such matters in that they may need to be redirected to the Office of Petitions from the Technology Center.

The petition pursuant to 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. §1.181."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

Application No. 11/632,782

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing requirements for relief pursuant to 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the final Office action mailed on 2 December, 2010, with reply due absent extension of time on or before 2 March, 2011.

On 1 February, 2011, Petitioner filed an after-final amendment which the Examiner refused to enter and Petitioner—as one registered to practice before the Office—knew was not as of right and not a proper reply¹ if it did not *prima facie* place the application in condition for allowance, and on 8 February, 2011, the Examiner mailed an Advisory Action.

On 10 February, 2011, Petitioner filed a second after-final amendment, which the Examiner refused to enter and Petitioner—as one registered to practice before the Office—knew was not as of right and not a proper reply if it did not *prima facie* place the application in condition for allowance, and on 23 February, 2011, the Examiner mailed an Advisory Action.

On 23 February, 2011, Petitioner filed a third after-final amendment, which the Examiner refused to enter and Petitioner—as one registered to practice before the Office—knew was not as of right and not a proper reply if it did not *prima facie* place the application in condition for allowance, and on 7 March, 2011, the Examiner mailed an Advisory Action. (In the meantime, on 1 March, 2011, Petitioner also made request of refund of certain fees, which was granted in part and denied in part on 16 March, 2011.)

On 27 April, 2011, Petitioner:

- made demand of the Director's intervention with a petition pursuant to 37 C.F.R. §1.181, which petition (does not and) did not toll the period for reply; and

¹ A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission under 37 C.F.R. §1.114). (See: MPEP §711.03(c).)

- filed a request and fee for extension of time and a fourth after-final amendment, which the Examiner refused to enter.

The application went abandoned by operation of law after midnight 2 May, 2011.

On 2 June, 2011, Petitioner submitted what he averred to be an “Interview Summary,” but which did little more than set out purported actions/inactions of the Technology Center/AU Supervisory Patent Examiner and the Examiner’s refusal to enter the after-final amendment. Petitioner is cautioned in this regard because Petitioner, as one registered to practice before the Office is aware that all practice before the Office is in writing (see: 37 C.F.R. §1.2²) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner’s action(s)/inaction(s).

The Office mailed the Notice of Abandonment on 28 June, 2011.

On 28 June, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181—but with no showing save that he filed a series of after-final amendments, all of which the Examiner has refused to enter. (It was noted on consideration of the petition that the Examiner had not indicated an intent to enter any of the four (4) after-final amendments.) The petition was dismissed on 11 July, 2011, for failing to make the showing required under the Rule, and the Petitioner was expressly provided in the decision the relevant excerpt from the guidance in the Commentary at MPEP §711.03(c)(I).

On 20 July, 2011, Petitioner re-advanced his a petition pursuant to 37 C.F.R. §1.181—this time Petitioner spent almost half of his eight- (8-) page petition arguing that “no affidavit or declaration is required.” The record evidences this contention by Petitioner is nothing other than a straw man: The 11 July, 2011, decision required no “affidavit or declaration”—rather, the decision simply directed Petitioner to the language of the MPEP specifically addressing the showing that Petitioner had to make to prevail under the Rule. Thus, Petitioner’s arguments from page 1 through the bottom of page 4 are inapplicable to the matter at hand—to wit: whether or not Petitioner timely and properly replied to the final Office action of 2 December, 2010. Petitioner then spent the remaining pages of his petition and his two- (2-) page (plus signature page) declaration arguing that he paid an extension of time. Petitioner must direct his attention to the very first line of the 28 June, 2011, Notice of Abandonment, which states: “Applicant’s failure to timely file a proper reply to the Office letter mailed on 02 December, 2010. *** (b) A proposed reply was received on 27 April, 2011, but it does not constitute a proper reply under 37 C.F.R. [§]1.113(a) to the final rejection.” (Emphasis supplied.) Once again, Petitioner’s burden

² The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

under the rule is a showing that he satisfied the requirement that he timely and properly reply. The multiple after-final amendments were not of right—a fact of which Petitioner, as one registered to practice before the Office, knew was not as of right and not a proper reply if it/they did not *prima facie* place the application in condition for allowance—and so did not constitute a timely and proper reply whatever extension of time Petitioner averred having submitted. Thus, Petitioner for the second time has failed to satisfy the requirements under the Rule because Petitioner has failed to satisfy the showing requirement under the Rule.

Therefore, Petitioner now is cautioned that the failure to file timely a petition pursuant to 37 C.F.R. §1.137(b) seeking to revive an application abandoned due to unintentional delay may be considered *indicia* of delay that is other than unintentional.

The guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to timely filing:

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as “Express Mail.” A petition to withdraw the holding of abandonment relying upon a timely reply placed in “Express Mail” must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the “Express Mail” procedures, the paper must be entered in PALM with the “Express Mail” date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that

correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512.³

A Petitioner unable to comply with and/or otherwise satisfy these requirements may wish to revive the application: Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation—since all owe to the Office the continuing duty to disclose.⁴

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the

³ See: MPEP §711.03(c) (I)(B).

⁴ See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18 (formerly 37 C.F.R. §10.18) to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Application No. 11/632,782

regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.^{5, 6}

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of “unavoidable” delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word ‘unavoidable’ . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.⁷

Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears not to have made the showing required.

⁵ See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

⁶ The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a). And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.)

⁷ In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm’r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff’d, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm’r Pat. 139, 141 (1913). In addition, decisions on revival are made on a “case-by-case basis, taking all the facts and circumstances into account.” Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was “unavoidable.” Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner pursuant to 37 C.F.R. §1.137(b) requesting revival of an application abandoned due to unintentional delay. (See:

http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

As noted above, Petitioner is cautioned that the failure to file timely a petition pursuant to 37 C.F.R. §1.137(b) seeking to revive an application abandoned due to unintentional delay may be considered *indicia* of delay that is other than unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By facsimile: **(571) 273-8300**
 Attn: Office of Petitions

Application No. 11/632,782

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2⁸) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).



/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

⁸ The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.



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J-TEK LAW PLLC
601 PENNSYLVANIA AVENUE, NW
SUITE 900, SOUTH BUILDING
WASHINGTON DC 20004

MAILED

AUG 22 2011

OFFICE OF PETITIONS

In re Application of :
Harlass :
Application No. 11/632,782 : **DECISION**
Filed/Deposited: 18 January, 2007 :
Attorney Docket No. HAR001-00079 :

This is a decision on the petition filed on 3 August, 2011, for revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b).

The petition pursuant to 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the final Office action mailed on 2 December, 2010, with reply due absent extension of time on or before 2 March, 2011.

On 1 February, 2011, Petitioner filed an after-final amendment which the Examiner refused to enter and Petitioner—as one registered to practice before the Office—knew was not as of right

Application No. 11/632,782

and not a proper reply¹ if it did not *prima facie* place the application in condition for allowance, and on 8 February, 2011, the Examiner mailed an Advisory Action.

On 10 February, 2011, Petitioner filed a second after-final amendment, which the Examiner refused to enter and Petitioner—as one registered to practice before the Office—knew was not as of right and not a proper reply if it did not *prima facie* place the application in condition for allowance, and on 23 February, 2011, the Examiner mailed an Advisory Action.

On 23 February, 2011, Petitioner filed a third after-final amendment, which the Examiner refused to enter and Petitioner—as one registered to practice before the Office—knew was not as of right and not a proper reply if it did not *prima facie* place the application in condition for allowance, and on 7 March, 2011, the Examiner mailed an Advisory Action. (In the meantime, on 1 March, 2011, Petitioner also made request of refund of certain fees, which was granted in part and denied in part on 16 March, 2011.)

On 27 April, 2011, Petitioner: made demand of the Director's intervention with a petition pursuant to 37 C.F.R. §1.181, which petition (does not and) did not toll the period for reply; and filed a request and fee for extension of time and a fourth after-final amendment, which the Examiner refused to enter.

The application went abandoned by operation of law after midnight 2 May, 2011.

On 2 June, 2011, Petitioner submitted what he averred to be an "Interview Summary," but which did little more than set out purported actions/inactions of the Technology Center/AU Supervisory Patent Examiner and the Examiner's refusal to enter the after-final amendment. Petitioner is cautioned in this regard because Petitioner, as one registered to practice before the Office is aware that all practice before the Office is in writing (see: 37 C.F.R. §1.2²) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s)/inaction(s).

The Office mailed the Notice of Abandonment on 28 June, 2011.

On 28 June, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181—but with no showing save that he filed a series of after-final amendments, all of which the Examiner has refused to enter. (It was noted on consideration of the petition that the Examiner had not

¹ A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission under 37 C.F.R. §1.114). (See: MPEP §711.03(c).)

² The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

indicated an intent to enter any of the four (4) after-final amendments.) The petition was dismissed on 11 July, 2011, for failing to make the showing required under the Rule, and the Petitioner was expressly provided in the decision the relevant excerpt from the guidance in the Commentary at MPEP §711.03(c)(I).

On 20 July, 2011, Petitioner re-advanced his a petition pursuant to 37 C.F.R. §1.181—this time Petitioner spent almost half of his eight- (8-) page petition arguing that “no affidavit or declaration is required.” The record evidenced this contention by Petitioner was nothing other than a straw man: The 11 July, 2011, decision required no “affidavit or declaration”—rather, the decision simply directed Petitioner to the language of the MPEP specifically addressing the showing that Petitioner had to make to prevail under the Rule. Thus, Petitioner’s arguments from page 1 through the bottom of page 4 were inapplicable to the matter at hand—to wit: whether or not Petitioner timely and properly replied to the final Office action of 2 December, 2010. Petitioner then spent the remaining pages of his petition and his two- (2-) page (plus signature page) declaration arguing that he paid an extension of time. Petitioner must direct his attention to the very first line of the 28 June, 2011, Notice of Abandonment, which states: “Applicant’s failure to timely file a proper reply to the Office letter mailed on 02 December, 2010. *** (b) A proposed reply was received on 27 April, 2011, but it does not constitute a proper reply under 37 C.F.R. [§]1.113(a) to the final rejection.” Once again, Petitioner’s burden under the rule was a showing that he satisfied the requirement that he timely and properly reply. The multiple after-final amendments were not of right—a fact of which Petitioner, as one registered to practice before the Office, knew was not as of right and not a proper reply if it/they did not *prima facie* place the application in condition for allowance—and so did not constitute a timely and proper reply whatever extension of time Petitioner averred having submitted. Thus, Petitioner for the second time failed to satisfy the requirements under the Rule because Petitioner has failed to satisfy the showing requirement under the Rule. The petition was dismissed on 28 July, 2011.

On 3 August, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, a reply in the form of a request for continued examination and fee and a submission pursuant to 37 C.F.R. §1.114 in the form of an amendment, and made the statement of unintentional delay.

Petitioners’ attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unintentional delay and a petition pursuant to 37 C.F.R. §1.137(b).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts

Application No. 11/632,782

of representations made to the Office and support averments with the appropriate documentation—since all owe to the Office the continuing duty to disclose.³

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to revive an application if the delay is shown to the satisfaction of the Commissioner to have been “unavoidable.” 35 U.S.C. §133 (1994).⁴ The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and, by definition, are not intentional.⁵)

As to Allegations of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 3776 for further processing in due course.

³ See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner’s duty of candor and good faith and accepting a statement made by Petitioner. See *Changes to Patent Practice and Procedure*, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

⁴ 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.


Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

⁵ Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one’s attention and the mail is not timely deposited for shipment.

Application No. 11/632,782

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2⁶) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).


/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

⁶ The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.



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1100 NEW YORK AVENUE NW
WASHINGTON DC 20005

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Application of	:	
Bartsch, et al.	:	
Application No. 11/632,825	:	
Filed: July 16, 2007	:	ON PETITION
Attorney Docket No.	:	
2400.1320000/VLC/CMB	:	

This is in response to petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed December 10, 2010.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed May 26, 2010, which set a shortened statutory period for reply of three (3) months. Applicant filed an Amendment on November 15, 2010, made timely by obtaining a three month extension of time. However, the Amendment failed to place the application in condition for allowance. As such, the application became abandoned on November 27, 2010. The Office mailed a Notice of Abandonment on December 6, 2010.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of a Notice of Appeal.

Please be advised that the two month period for filing an appeal brief (accompanied by the fee required by 37 CFR 1.17(c)) runs from the date of this decision.

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Page 2

The application is being forwarded to Group Art Unit 1634 to await applicants' submission of the Appeal Brief.

Telephone inquiries concerning this decision may be directed to the undersigned at 571-272-3207.

A handwritten signature in cursive script, appearing to read "Cliff Congo".

Cliff Congo
Petitions Attorney
Office of Petitions



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OFFICE OF PETITIONS

**WEINGARTEN, SCHURGIN, GAGNEBIN & LEOVICI LLP
TEN POST OFFICE SQUARE
BOSTON MA 02109**

In re Application of :
Troy Stratti :
Application No. 11/632,864 : **DECISION ON PETITION**
Filed: January 19, 2007 :
Attorney Docket No. GRIF-011XX :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 28, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 2, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 3, 2009. A Notice of Abandonment was mailed on March 25, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b), (2) the petition fee of \$810 and (3) a proper statement of unintentional delay. Accordingly, the filing of a continuing application under 37 CFR 1.53(b) is accepted as being unintentionally delayed.

The application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of a continuing application under 37 CFR 1.53(b).

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$555 extension of time fee submitted with the petition on June 28, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card account.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Bradley M. Ganz
Ganz Law, P.C.
P.O. Box 2200
Hillsboro, OR 97123



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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

In re Patent No. 7,947,347	:	
Issue Date: May 24, 2011	:	
Application No.: 11/632,911	:	ON PETITION
Filed: January 19, 2007	:	
Attorney Docket No.: 0020-5541PUS1	:	

This is a decision in response to a petition filed July 14, 2011, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 756-1814.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

¹ See MPEP 1309, subsection II; and Official Gazette of June 22, 2004.



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NIXON PEABODY LLP
300 S. Riverside Plaza
16th Floor
CHICAGO IL 60606

In re Application of	:	
THOMAS, et al.	:	DECISION ON
Application No.: 11/632,917	:	
PCT No.: PCT/US2005/026549	:	REQUEST UNDER
Int. Filing Date: 27 July 2005	:	
Priority Date: 28 July 2004	:	37 CFR 1.497(d)
Attorney Docket No.: 47079-00274USPX	:	
For: WAGERING GAME HAVING PROGRESSIVE	:	
AMOUNTS DISPLAYED IN A MATRIX	:	

This decision is in response to applicant's "Renewed Petition Under 37 C.F.R. §1.497(d)" filed 18 July 2010 in the United States Patent and Trademark Office (USPTO) and supplemented on 31 July 2010.

BACKGROUND

On 06 May 2010, applicant was mailed a decision dismissing applicant's request under 37 CFR 1.497(d). Applicant was afforded two months to file any request for reconsideration and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 18 July 2010, applicant filed the present renewed petition which was accompanied by a petition for a one-month extension of time and supplemented on 31 July 2010. The response are considered timely filed.

DISCUSSION

As detailed in the decision mailed 06 May 2010, 37 CFR 1.497(d) [formally, 37 CFR 1.48] states in part: "If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application....applicant must submit:

- (1) a petition including a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;
- (2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.63;
- (3) the fee set forth in 37 CFR 1.17(h); and

- (4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

Applicant previously satisfied items (3).

With the filing of the present renewed petition and supporting materials applicant has satisfied the remaining three elements and it is therefore appropriate to grant applicant's renewed petition at this time.

CONCLUSION

For the reasons above, applicant's renewed request under 37 CFR 1.497(d) is **GRANTED**.

This application has an international application filing date of 27 July 2005 and will be given a date of **18 July 2010** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the DO/EO/US for processing in accordance with this decision.



Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294



UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 13 2011

ROBERTS MLOTKOWSKI SAFRAN & COLE, P.C.
Intellectual Property Department
P.O. Box 10064
McLean, VA 22102-8064

In re Application of Denis J. Stemmler :
Appl. No.: 11/632,922 : **RESPONSE TO PETITION**
Filed: January 18, 2007 : **UNDER 37 CFR 1.59**
For: CARRIER DELIVERY SEQUENCE AND :
PROCESS ADAPTED FOR UPSTREAM INSERTION :
OF EXCEPTIONAL MAIL PIECES :
:

This is a decision on the petition under 37 CFR 1.59(b), filed October 5, 2009, to expunge information from the above identified application.

The petition is **GRANTED**.

Petitioner requests that "information submitted with the Second Supplemental IDS filed on September 25, 2009 be expunged" as it contains "work product" that is "privileged."

A petition under 37 CFR 1.59(b) must contain:

- (A) a clear identification of the information to be expunged without disclosure of the details thereof;
- (B) a clear statement that the information to be expunged is trade secret material, proprietary material, and/or subject to a protective order, and that the information has not been otherwise made public;
- (C) a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
- (D) a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information;
- (E) the fee as set forth in 37 CFR 1.17(g) for a petition under 37 CFR 1.59(b)

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

As the above conditions have been met, the requested material has been expunged. However, the material will not be returned to the applicants. The obligation to return documents was removed from 37 CFR 1.59 (June 30, 2003 Fed Register, Vol. 68, No. 125, 38613). The documents have been closed from the IFW record so as not to be viewable by non-PTO personnel.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

Any questions regarding this decision should be directed to Stefanos Karmis at (571) 272-6744.



David Talbott, Director
Patent Technology Center 3600
(571) 272-5150

DT/sk: 12/8/11





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MCDONNELL BOEHNEN HULBERT &
BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

MAILED
AUG 01 2011
OFFICE OF PETITIONS

In re Application of :
Etzerodt et al. :
Application No. 11/633040 : ON APPLICATION FOR
Filing or 371(c) Date: 12/04/2006 : PATENT TERM ADJUSTMENT
Attorney Docket Number: 08-348-US-DIV :

This is a decision on the “APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b),” filed June 7, 2011. Applicants’ request recalculation of the patent term adjustment calculation to 10 days, not zero (0) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction based upon an assertion that the Office erred in calculating an adjustment of 156 days.

The Application for Patent Term Adjustment Including Request for Reconsideration of Patent Term Adjustment (“PTA”) under 37 CFR 1.705(b), as it relates to the assertion that the Office erred in calculating an adjustment of 156 days is **GRANTED**.

On December 22, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is zero (0) days.

On June 7, 2011, applicants timely submitted the instant application for patent term adjustment¹. Applicants request that the Determination of Patent Term Adjustment be corrected from zero (0) days, as indicated on the Determination of PTA mailed June 7, 2011, to an adjustment of 10 days. Applicants aver that the Office erred in calculating an adjustment pursuant to 37 CFR 1.702(a)(1) in connection with the mailing of an Office communication on July 9, 2008, fourteen months and 156 days after the filing of the application. Applicants aver that the Office communication was not an action under 35 U.S.C. 132 or a Notice of Allowance under 35 U.S.C. 151 as required by 37 CFR 1.703(a)(1), and as such, the first action under 35 U.S.C. 132 was a restriction requirement mailed December 8, 2008, 308 days after the fourteen-month date.

A review of the application file history confirms that the adjustment pursuant to 37 CFR 1.702(a)(1), began on December 8, 2008, and the number of days in the period of adjustment

¹ PALM records show that the Issue Fee payment was filed on June 7, 2011.

pursuant to 37 CFR 1.703(a)(1) for the Office's mailing of a first action under 35 U.S.C. 132 on December 8, 2008, is 308 days, counting the number of days beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), and ending on the date of mailing of the first action under 35 U.S.C. 132, December 8, 2008.

In view thereof, the correct determination of patent term adjustment at the time of mailing of the Notice of Allowance is 10 days, subject to any terminal disclaimer.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent, including any request as it relates to the Office's failure to issue the patent within 3 years of the filing date, must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

MAILED
OCT 26 2011
OFFICE OF PETITIONS

In re Application of	:	
Etzerodt et al.	:	
Patent Number: 8017559	:	DECISION ON
Issue Date: 09/13/2011	:	APPLICATION FOR
Application No. 11/633040	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 12/04/2006	:	and
Attorney Docket No.	:	NOTICE OF INTENT TO ISSUE
08-348-US-DIV	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 6, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred forty-nine (649) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by six hundred forty-nine (649) days is **GRANTED**.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **six hundred forty-nine (649) days**.

Patent No. 8017559

Application No. 11/645663

Page 2

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 8,017,559 B2

DATED : **September 13, 2011**

INVENTOR(S) : Etzerodt et al..

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

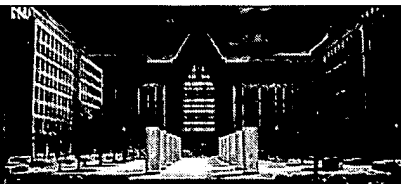
On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 501 days.

Delete the phrase "by 501 days" and insert – by 649 days--



Patent Term Adjustments



PTA/PTE Information

Application Number*: 11633040

[Search](#)

[Explanation of PTA Calculation](#)

[Explanation of PTE Calculation](#)

PTA Calculations for Application: 11633040

Application Filing Date	12/04/2006	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent	09/13/2011	Non-Overlapping USPTO Delays	799
A Delays	160	PTO Manual Adjustment	148
B Delays	639	Applicant Delay (APPL)	298
C Delays	0	Total PTA (days)	649

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
106	10/24/2011		P028	Adjustment of PTA Calculation by PTO	148	0	
101.5	09/13/2011	12/04/2009	PTA36M	PTA 36 Months	639	0.5	
101	09/13/2011		PTAC	Patent Issue Date Used in PTA Calculation		0	
100	08/08/2011		EFDC	Export to Final Data Capture		0	
99	08/05/2011		D1935	Dispatch to FDC		0	
97	08/01/2011		MP025	Mail-Record a Petition Decision of Granted for Patent Term Adjustment after Allowance		0	
96	08/01/2011		P025	Record a Petition Decision of Granted for Patent Term Adjustment after Allowance		0	
96	08/01/2011		P025	Record a Petition Decision of Granted for Patent Term Adjustment after Allowance		0	
98	07/25/2011		FIDC	Finished Initial Data Capture		0	
95	07/21/2011		TCPB	Printer Rush- No mailing		0	
94	07/21/2011		MCNOA	Mailing Corrected Notice of Allowability		0	
93	07/15/2011		OAR	Office Action Review		0	
92	07/15/2011		CNOA	Corrected Notice of Allowability		0	
90	06/22/2011		PUBTC	Pubs Case Remand to TC		0	
86	06/10/2011		PILS	Application Is Considered Ready for Issue		0	
87	06/07/2011		PET2	Petition Entered		0	
85	06/07/2011		SMAL	Applicant Has Filed a Verified Statement of Small Entity Status in Compliance with 37 CFR 1.27		0	
84	06/07/2011		N084	Issue Fee Payment Verified		0	
83	06/07/2011		IFEE	Issue Fee Payment Received		0	
89	05/11/2011		TCPB	Printer Rush- No mailing		0	
88	05/11/2011		TCPB	Printer Rush- No mailing		0	
82	05/11/2011		TCPB	Printer Rush- No mailing		0	
81	05/09/2011		PUBTC	Pubs Case Remand to TC		0	
80	04/21/2011		QURF	Workflow - Query Request - Finish		0	
79	04/21/2011		TCPB	Printer Rush- No mailing		0	
78	04/15/2011		PUBTC	Pubs Case Remand to TC		0	
77	03/11/2011		EIDC	Export to Initial Data Capture		0	
76	03/08/2011	02/28/2011	MN/=.	Mail Notice of Allowance		69	
75	03/04/2011		IREV	Issue Revision Completed		0	
74	03/04/2011		DVER	Document Verification		0	
73	03/04/2011		N/=.	Notice of Allowance Data Verification Completed		0	
72	03/04/2011		DOCK	Case Docketed to Examiner in GAU		0	
71	03/03/2011		CNTA	Allowability Notice		0	
68	03/03/2011		FWDX	Date Forwarded to Examiner		0	
69	02/28/2011		N/AP	Notice of Appeal Filed		0	
67	02/28/2011	11/30/2010	A.NE	Amendment after Final Rejection	90	58	
66	02/28/2011		XT/G	Request for Extension of Time - Granted		0	
70	02/17/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)		0	
65	02/04/2011		MCTAV	Mail Advisory Action (PTOL - 303)		0	
63	02/03/2011		CTAV	Advisory Action (PTOL-303)		0	
62	01/28/2011		FWDX	Date Forwarded to Examiner		0	
61	01/26/2011		A.NE	Amendment after Final Rejection		0	
60	01/26/2011		XT/G	Request for Extension of Time - Granted		0	
59	01/26/2011		C614	New or Additional Drawing Filed		0	
64	09/10/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)		0	
58	08/31/2010		MCTFR	Mail Final Rejection (PTOL - 326)		0	
57	08/30/2010		CTFR	Final Rejection		0	
56	08/17/2010		IDSC	Information Disclosure Statement considered		0	
55	08/17/2010	06/25/2010	EIDS.	Electronic Information Disclosure Statement	53	52	
54	08/17/2010		WIDS	Information Disclosure Statement (IDS) Filed		0	
53	06/28/2010		FWDX	Date Forwarded to Examiner		0	
52	06/25/2010		ELC.	Response to Election / Restriction Filed		0	

51	06/25/2010	XT/G	Request for Extension of Time - Granted		0
50	05/12/2010	MCTRS	Mail Restriction Requirement		0
49	05/10/2010	CTRS	Restriction/Election Requirement		0
48	03/03/2010	FWDX	Date Forwarded to Examiner		0
47	01/29/2010	12/03/2009 A...	Response after Non-Final Action	52	45
46	01/29/2010	XT/G	Request for Extension of Time - Granted		0
45	09/03/2009	MCTNF	Mail Non-Final Rejection		0
44	08/31/2009	CTNF	Non-Final Rejection		0
40	07/07/2009	FWDX	Date Forwarded to Examiner		0
39	05/18/2009	02/09/2009 ELC.	Response to Election / Restriction Filed	28	34
38	05/01/2009	NINA	Mail Notice of Informal or Non-Responsive Amendment		0
35	03/09/2009	FWDX	Date Forwarded to Examiner		0
34.1	02/09/2009	A.I.	Informal or Non-Responsive Amendment after Examiner Action		0
34	02/09/2009	ELC.	Response to Election / Restriction Filed		0
33	02/09/2009	XT/G	Request for Extension of Time - Granted		0
32	12/08/2008	12/04/2008 MCTRS	Mail Restriction Requirement	4	29
31	12/06/2008	CTRS	Restriction/Election Requirement		0
30	10/03/2008	FWDX	Date Forwarded to Examiner		0
28	09/08/2008	CRFF	Error(s) in CRF Corrected by STIC		0
29	08/04/2008	A...	Response after Non-Final Action		0
27	07/09/2008	02/04/2008 MCTMS	Mail Miscellaneous Communication to Applicant	156	0.5
26	07/07/2008	CTMS	Miscellaneous Action with SSP		0
25	05/23/2008	PA..	Change in Power of Attorney (May Include Associate POA)		0
24	05/22/2008	C.AD	Correspondence Address Change		0
23	12/06/2007	EML_NTR	Email Notification		0
22	11/28/2007	PG-ISSUE	PG-Pub Issue Notification		0
43	11/13/2007	IDSC	Information Disclosure Statement considered		0
20	11/13/2007	WIDS	Information Disclosure Statement (IDS) Filed		0
19	11/09/2007	DOCK	Case Docketed to Examiner in GAU		0
18	09/10/2007	CFRPT	Corrected filing receipt		0
17	09/01/2007	TSSCOMP	IFW TSS Processing by Tech Center Complete		0
16	08/22/2007	OIPE	Application Dispatched from OIPE		0
15	08/17/2007	PGPC	Sent to Classification Contractor		0
14	08/17/2007	COMP	Application Is Now Complete		0
13	08/06/2007	ADDFLFE	Additional Application Filing Fees		0
12	08/06/2007	CORRSPEC	Applicant has submitted a new specification to correct Corrected Papers problems		0
11	06/04/2007	CPAP	Corrected Paper		0
4	04/16/2007	CRFE	CRF Is Good Technically / Entered into Database		0
6	12/29/2006	A.PE	Preliminary Amendment		0
3	12/14/2006	L194	Cleared by OIPE CSR		0
2	12/11/2006	SCAN	IFW Scan & PACR Auto Security Review		0
5	12/04/2006	A.PE	Preliminary Amendment		0
1	12/04/2006	IEXX	Initial Exam Team nn		0
0.5	12/04/2006	EFIL	Filing date		0

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**KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614**

**MAILED
FEB 01 2012
OFFICE OF PETITIONS**

In re Application of :
Michael E. SHANAHAN : DECISION DISMISSING PETITION
Application No. 11/633,135 : UNDER 37 CFR 1.137(b)
Filed: December 2, 2006 :
Atty. Docket No.: PREMM.000GEN :

This is a decision on the petition under 37 CFR 1.137(b), filed November 16, 2011, to revive the above-identified application ("Application").

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mailing date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)". This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The Application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Fees Due mailed August 9, 2011 ("Notice"), which set a reply period of three (3) months. The application thus became abandoned on November 10 2011.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) an appropriate reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a Statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). The present petition lacks item (1).

As the abandonment was the result of failure to pay the Issue and Publication fees, a proper reply would have included the required fees (MPEP 711.03(c)). Petitioner has filed a Request for Continued Examination **without** the required fees. As such, Petitioner's reply is not proper.

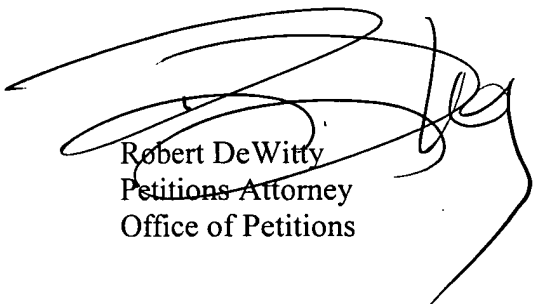
Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Telephone inquiries relating to this decision should be directed to Robert DeWitty (571-272-6051).



Robert DeWitty
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 03/18/10

Paper No.: _____

TO SPE OF : ART UNIT 2618SUBJECT : Request for Certificate of Correction for Appl. No.: 11633220 Patent No.: 7657237

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the COCIN document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code COCX.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

Lamonte Newsome

Certificates of Correction Branch

703-758-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes do not apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

/Nay Maung/

8/30/10

Deleted: _____

**SPE RESPONSE FOR CERTIFICATE OF CORRECTION
SPE**

Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently \$100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Magdalene Talley

For Mary Diggs
Decisions & Certificates
of Correction Branch
(571)272-0423
Fax-(571)270-9942

Bennett J. Berson

Quarles & Brady LLP

P.O. Box 2113

Madison, WI 53701-2113

MD/mt



33 East Main Street
Suite 900
Madison, Wisconsin 53703
608.251.5000
Fax 608.251.9166
www.quarles.com

Attorneys at Law in
Milwaukee and Madison, Wisconsin
Naples and Tampa, Florida
Phoenix and Tucson, Arizona
Chicago, Illinois
Shanghai, China

Facsimile Transmission Form

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OCT 31 2011

Date: October 31, 2011

To:	Fax No.	Phone No.
Name Company/Firm City, State Zip Country	Office of Petitions USPTO Alexandria, VA US	571-273-8300

From:	Bennett J. Berson	608.294.4906	608.283.2418
Re:	Serial No. 11/633,232 Method of DNA Analysis Using Micro/Nanochannel		

Message:

Request for Certificate of Correction to Correct Assignee on Letters Patent Under 37 CFR 3.81(b)

IF YOU HAVE PROBLEMS RECEIVING THIS FACSIMILE, PLEASE CALL US IMMEDIATELY AT:
608.251.5000

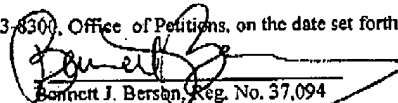
No. of Pages (Including Cover): 5	Job Code:
Client - Matter No.: 960296.00360	Time Keeper: BJB
Recipient: Office of Petitions	Return To: Cheryl Harbort
Requestor Name:	Phone No.: 608.251.5000

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OCT 31 2011

I hereby certify that this correspondence is being transmitted via facsimile to (571) 273-8300, Office of Petitions, on the date set forth below.

Date of Signature and Deposit: October 31, 2011


Bennett J. Bersan, Reg. No. 37,094

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: David C. Schwartz
Kyubong Jo
Dalia M. Dhingra

Date: October 31, 2011

Confirmation No.: 2443

Serial No.: 11/633,232

Group Art Unit: 1634

Filed: November 29, 2006

Examiner: Bradley L. Sisson

Title: METHOD OF DNA ANALYSIS USING
MICRO/NANOCHANNEL

File No.: 960296.00360

REQUEST FOR CERTIFICATE OF CORRECTION TO CORRECT ASSIGNEE ON
LETTERS PATENT UNDER 37 CFR 3.81(b)

ATTN: OFFICE OF PETITIONS
FAX: (571) 273-8300

Dear Sir:

Upon review of the issued Letters Patent for the above-referenced case, it has been discovered that the information at item 73 (Assignee name and residence) is incorrect. The incorrect assignee was inadvertently indicated on the Fee(s) Transmittal form PTOL-85B and was by no means intended to indicate a different entity from the assignee on the filed and recorded assignment document. The issued patent indicates that the assignee is National Institutes of Health, when in fact the Assignment filed and recorded for this case is to Wisconsin Alumni Research Foundation, Madison Wisconsin.

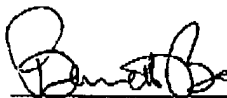
Serial No. 11/633,232
Schwartz et al.
Examiner: Bradley L. Sisson
Date of Request: October 31, 2011

The assignment, submitted herewith, was recorded at reel 019352, frame 0504 on May 30, 2007. Therefore, the assignment was submitted and recorded before issuance of the patent on June 14, 2011. Issuance of a Certificate of Correction for this patent is, therefore, requested. If this request is granted, please forward this request to the Certificates of Correction Branch for issuance of a Certificate of Correction.

The \$130.00 fee due under 37 C.F.R. §1.17(i) was paid from Deposit Account Number 17-0055 on August 25, 2011. The \$100.00 fee due under 37 C.F.R. §1.20(a) was also paid from Deposit Account Number 17-0055 on August 25, 2011. No other fees are believed due; however, if any fees are due, in this or any subsequent response, please charge the same Deposit Account.

Should the Office have any questions, please contact the undersigned directly.

Respectfully submitted,



Bennett J. Berson
Reg. No. 37,094
Attorney for Applicants
QUARLES & BRADY LLP
P.O. Box 2113
Madison, WI 53701-2113

TEL (608) 251-5000
FAX (608) 251-9166

10/31/2011 16:11
USPTO

608-251-9166

8/5/2007 10:01:31 AM

QUARLES&BRADY LLP

PAGE 2/005

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PAGE 04/05

TO: JESSICA WARTENWEILER COMPANY: 614 WALNUT STREET



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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

MAY 30, 2007

PTAS

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500285709A

JESSICA WARTENWEILER
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13TH FLOOR
MADISON, WI 53726

**UNITED STATES PATENT AND TRADEMARK OFFICE
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RECORDATION DATE: 05/30/2007

REEL/FRAME: 019352/0504
NUMBER OF PAGES: 6

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

SCHWARTZ, DAVID

DOC DATE: 02/26/2007

ASSIGNOR:

DHINGRA, DALIA

DOC DATE: 02/26/2007

ASSIGNOR:

JO, KYUBONG

DOC DATE: 03/02/2007

ASSIGNEE:

WISCONSIN ALUMNI RESEARCH
FOUNDATION
614 WALNUT STREET
MADISON, WISCONSIN 53726

SERIAL NUMBER: 11633232

FILING DATE: 11/29/2006

P.O. Box 1450, Alexandria, Virginia 22313-1450 • www.uspto.gov

10/31/2011 16:11
USPTO

608-251-9166

QUARLES&BRADY LLP

PAGE 05/05

5/5/2007 10:01:31 AM PAGE 3/003 fax server

TO: JESSICA WARTENWEILER COMPANY: 614 WALNUT STREET

PATENT NUMBER:

ISSUE DATE:

TITLE: METHOD OF DNA ANALYSIS USING MICRO/NANOCHANNEL

019352/0504 PAGE 2

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10/31/2011 4:07:18 PM

CST

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Harbort, Cheryl

DCMFAXBRD02.2.4

Page 1



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Suite 900
Madison, WI 53703-2808
Phone: 608/251-5000
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608/251-5139

Attorneys at Law in
Milwaukee and Madison, Wisconsin
Phoenix and Tucson, Arizona
Chicago, Illinois
Naples and Tampa, Florida

FAX TRANSMITTAL COVER SHEET

To: **Office of Petitions**
Company: **USPTO**
Fax number: **571-273-8300**
Phone number:

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OCT 31 2011

From: **Harbort, Cheryl**
Phone number: **608-283-2494**
Senders direct fax: **608-294-4958**

Number of Pages (including cover sheet): **5**
Date & Time Faxed: **10/31/2011 4:06:53 PM**

Message:

Request for Certificate of Correction to Correct Assignee on Letters Patent Under 37 CFR 3.81(b)

**THE INFORMATION CONTAINED IN THIS MESSAGE IS PERSONAL AND CONFIDENTIAL
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I hereby certify that this correspondence is being transmitted via facsimile to (571) 273-8300, Office of Petitions, on the date set forth below.

Date of Signature and Deposit: October 31, 2011


Bennett J. Bersen, Reg. No. 37,094

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: David C. Schwartz
Kyubong Jo
Dalia M. Dhingra

Date: October 31, 2011

Confirmation No.: 2443

Serial No.: 11/633,232

Group Art Unit: 1634

Filed: November 29, 2006

Examiner: Bradley L. Sisson

Title: METHOD OF DNA ANALYSIS USING
MICRO/NANOCHANNEL

File No.: 960296.00360

REQUEST FOR CERTIFICATE OF CORRECTION TO CORRECT ASSIGNEE ON
LETTERS PATENT UNDER 37 CFR 3.81(b)

ATTN: OFFICE OF PETITIONS
FAX: (571) 273-8300

Dear Sir:

Upon review of the issued Letters Patent for the above-referenced case, it has been discovered that the information at item 73 (Assignee name and residence) is incorrect. The incorrect assignee was inadvertently indicated on the Fee(s) Transmittal form PTOL-85B and was by no means intended to indicate a different entity from the assignee on the filed and recorded assignment document. The issued patent indicates that the assignee is National Institutes of Health, when in fact the Assignment filed and recorded for this case is to **Wisconsin Alumni Research Foundation, Madison Wisconsin.**

QB\960296.00360\14888440.1

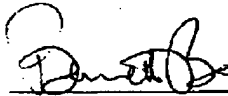
Serial No. 11/633,232
Schwartz et al.
Examiner: Bradley L. Sisson
Date of Request: October 31, 2011

The assignment, submitted herewith, was recorded at reel 019352, frame 0504 on May 30, 2007. Therefore, the assignment was submitted and recorded before issuance of the patent on June 14, 2011. Issuance of a Certificate of Correction for this patent is, therefore, requested. If this request is granted, please forward this request to the Certificates of Correction Branch for issuance of a Certificate of Correction.

The \$130.00 fee due under 37 C.F.R. §1.17(i) was paid from Deposit Account Number 17-0055 on August 25, 2011. The \$100.00 fee due under 37 C.F.R. §1.20(a) was also paid from Deposit Account Number 17-0055 on August 25, 2011. No other fees are believed due; however, if any fees are due, in this or any subsequent response, please charge the same Deposit Account.

Should the Office have any questions, please contact the undersigned directly.

Respectfully submitted,



Bennett J. Berson
Reg. No. 37,094
Attorney for Applicants
QUARLES & BRADY LLP
P.O. Box 2113
Madison, WI 53701-2113

TEL (608) 251-5000
FAX (608) 251-9166

10/31/2011 4:07:25 PM
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2/005 Fax Server

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MAY 30, 2007

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RECORDATION DATE: 05/30/2007

REEL/FRAME: 019352/0504
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BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

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ASSIGNOR:

JO, KYUBONG

DOC DATE: 03/02/2007

ASSIGNEE:

WISCONSIN ALUMNI RESEARCH
FOUNDATION
614 WALNUT STREET
MADISON, WISCONSIN 53726

SERIAL NUMBER: 11633232

FILING DATE: 11/29/2006

P.O. Box 1450, Alexandria, Virginia 22313-1450 - www.uspto.gov

" 10/31/2011 4:07:36 PM CST Harbort, Cheryl DCMFAXBRD02.2.4 Page 5
USPTO 6/5/2007 10:01:31 AM PAGE 3/005 Fax Server

TO: JESSICA WARTENWEILER COMPANY: 614 WALNUT STREET

PATENT NUMBER: ISSUE DATE:
TITLE: METHOD OF DNA ANALYSIS USING MICRO/NANOCHANNEL

019352/0504 PAGE 2

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/633,347	12/04/2006	Jincong Zhuo	20443-0042001 / INCY0042-	1960
26161 7590 04/04/2011 FISH & RICHARDSON P.C. (BO) P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER AULAKH, CHARANJIT	
			ART UNIT 1625	PAPER NUMBER
			NOTIFICATION DATE 04/04/2011	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com



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Commissioner for Patents
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APR 04 2011

EIFION PHILIPS
FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

In re Application of
Zhuo et al.

Decision on Petition

Serial No.: 11/633,347

Filed: December 4, 2006

Attorney Docket No.: 20443-0042001/INCY0042-001

This letter is in response to the Petition of December 22, 2010 under 37 CFR 1.144 and 1.181 to request the reconsideration of the restriction requirement mailed on December 17, 2009.

BACKGROUND

On December 4, 2006, the present application was filed with 66 claims.

On December 17, 2009, the Examiner issued a Requirement for Restriction ("Requirement") requiring an election of one of elective Groups I-III set forth as follows:

- I. Claims In part 1-66, drawn to Compounds of formula I where r is 1, L is absent, E represents – (CR3aR3b)n1 and n1 is 1 (see compounds of examples 41-43, 54-56 , 1 and 5), pharmaceutical compositions containing these compounds and methods of treatment using these compounds, classified in class 544, subclass 336.
- II. Claims In part 1-66, drawn to Compounds of formula I where r is 1, L is CO, O, S, SO or SO2, E represents –(CR3aR3b)n1 and n1 is 1 (see compounds of examples 6-9), pharmaceutical compositions containing these compounds and methods of treatment using these compounds, classified in class 546, subclass 16.
- III. Claims In part 1-66, drawn to Compounds of formula I where variables r, L, E and n1 are other than defined above for groups I and II, pharmaceutical compositions containing these compounds and methods of treatment using these compounds, classified in classes 540, 544 and 546, numerous subclasses within each class.

The restriction was on the basis that the compounds of the different groups were "so divergent that a reference showing compounds of invention I would not render compounds of inventions II or II prima facie obvious." and that examination for each of the claimed inventions would be burdensome on the grounds that the searches required for the different inventions were not the same.

With respect to Group III, the Applicant was further required to elect specific embodiments for the variables r, E, n1, n2, and L. Requirement for Restriction, pages 3-4.

In a Response to the Election filed on May 17, 2010, the Applicant elected Group III, made the following species elections for the indicated variables: r is 1; E is $-(CR^{3a}R^{3b})_{n1}$; n1 is 2; and L is absent. Response to Election, page 39 of 52. No election was made for n2 as this election was not relevant to the elected embodiment of E. Id. Applicant also traversed the rejection on the basis of that the restriction required intra-claim restriction of a Markush claim, that the restriction requirement was unclear, and that at least claim 1 is a linking claim linking the inventions of Groups I-III.

On June 15, 2010, the Examiner issued an Office action indicating that claims 18, 19, 39-41, and 47 were withdrawn as reading on non-elected subject matter, objecting to claims 2-14, 20-38, 41-46, and 52-61 as reading on non-elected subject matter, and rejecting claims 1 and 62-67 (under 35 USC 112 first and second paragraphs). The Action also indicated that "[t]he instant compounds directed to the elected subject matter are allowable over the prior art." No art rejections were made.

This disposition of the claims was maintained in the Final action of October 21, 2010, with the exception that claim 1 was additionally objected to for reading on non-elected subject matter.

In the Petition from a Restriction Requirement filed on December 22, 2010, the Applicant argues that the Examiner Erred by failing to examine the claims readable on the elected invention to the extent necessary to determine patentability, that the examination of the Markush claim (e.g. claim 1) should have been further examined to determine patentability pursuant to MPEP 803.02 following the determination that the elected species is allowable, and that the objections to claims 1-14, 20-38, 41-46, and 52-61 as reading on non-elected subject matter was improper in view of the requirement under MPEP §§ 803.02 and 809 that examination of Markush and linking claims be extended beyond the elected invention, if that invention is found allowable, to determine patentability of the Markush/linking claim.

Applicant requests that the Finality of the October 21, 2010 action be withdrawn, and that the Examiner be instructed to extend examination to determine the patentability of the full scope of the linking/Markush claims. In particular, the Applicant requests that examination be conducted of claims 1-14, 20-38, 40-46, 52-61, 65, 66, and 68; and that claims 18, 19, 39, and 47 would be eligible for rejoinder once claim 1 is found patentable.

DISCUSSION

The application, file history, and petition filed on December 22, 2010 to request review of the restriction requirement has been considered.

In the Petition, the Applicant identifies 5 determinations to be made.

The first two determinations are related. In each case, the Applicant asserts that the Examiner should have considered, respectively, claims 2-14, 20-38, 42-47, 52-55, and 60-62 in the action of June 15, 2010, or claims 1-14, 20-38, 42-46, 52-61, and 68 in the action of October 21, 2010.

Thirdly, the Applicant requests consideration as to whether the objections to claims “for reading on non-elected subject matter” in the indicated Office actions was proper.

Fourthly, the Applicant asks for consideration as to whether the Office actions were complete in view of their failure to examine claims 40 and 41 for patentability.

Finally, the Applicant asks whether the Final action of October 21, 2010 was properly made Final in view of the failure to fully examine the claims.

The completeness of the actions of June 15 and October 21, 2010.

The elected species of Group III, as identified on page 39 of the Response of May 17, 2010 appears to include present claims 1-14, 20-38, 42-46, 52-61, and 65, 66, and 68, and would have included the subject matter of claims 1-14, 20-38, 42-46, 52-61, and 65-66 as presented in the original claims. This based on a comparison of these claims with the elected embodiments of the variables r, E, n1, n2, and L as required in the Requirement for Restriction.

As the indicated actions did not fully address the patentability of these claims by either identifying the claims as allowable, or examining the claims until such time as art was applied against the claims (see below), the actions appear to be incomplete.

In view of this, the Examiner is required to examine at least each of these claims for patentability.

Objections to the claims for containing non-elected subject matter.

MPEP § 803.02 provides a definition of Markush type claims, and indicates the manner of examination of these claims. The MPEP section states that “A Markush-type claim may include independent and distinct inventions.” and that “In applications containing a Markush-type claim that encompasses at least two independent or distinct inventions, the examiner may require a provisional election of a single species prior to examination on the merits.”

While the Restriction Requirement of record does not indicate the provisional nature of the election requirement, such is in effect by the nature of the requirement.

MPEP § 803.02 further indicates as follows:

On the other hand, should the examiner determine that the elected species is allowable, the examination of the Markush-type claim will be extended. If prior art is then found that anticipates or renders obvious the Markush-type claim with respect to a *nonelected species*, the Markush-type claim shall be rejected and claims to the nonelected species

held withdrawn from further consideration. The prior art search, however, will not be extended unnecessarily to cover all nonelected species.

In the present case, there was no prior art found with respect to the elected Markush species. As such, examination of the remaining inventions should have been conducted until such time as the claim was either found allowable, or until a species of the claim was rejected over prior art.

MPEP § 821 relates to the treatment of claims drawn to non-elected invention. This section of the MPEP makes no provision for the objection of Markush claims on the basis that they read on non-elected subject matter. Such would also be contrary to the handling of such claims as described by MPEP § 803.02 as described above.

In view of this, upon determining that the elected species of the claimed invention was allowable, examination should have continued with respect to the non-elected inventions in order to make a patentability determination as to the Markush claim. Such examination should have continued until such time as prior art rejection was made over a non-elected species, or until the claim was determined to be allowable.

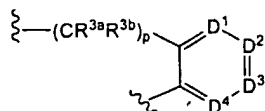
As there has been no prior art rejection made with respect to the Markush claim, the Examiner is required to expand examination to the non-elected species until the claim is either determined to be allowable, or a prior art rejection is made.

Assuming that claim 1, or a version thereof that encompasses the inventions of claims 18, 19, 39, and 47; this would necessitate the examination of the inventions of these dependent claims to the extent required to determine patentability.

Examination of claims 40 and 41.

In the Petition, the Applicant also asks for examination of claims 40 and 41 which are asserted to read on the elected invention.

These claims are drawn to embodiments of claim 1 wherein the scope of variables D^1 - D^4 have been further limited. It is noted that D^1 - D^4 are relevant only to embodiments where variable E is a group encompassed by the formula:



This is an alternative embodiment to the elected species, wherein E is $-(CR^{3a}R^{3b})_n-$. Thus, while the Examiner may have to examine these claims at one point, the Office actions may or may not be incomplete for failure to consider these claims (and claim 39 which encompasses the subject matter of these claims).

Finality of the October 21, 2010 Office action.

In view of the fact that there has been no full examination of at least those claims drawn to the elected embodiments to the extent necessary to determine patentability of these claims, the Finality of the October 21, 2010 action appears to be premature.

DECISION

For these reasons above, the petition under 37 C.F.R. 1.181 is **GRANTED in part**.

The finality of the action mailed on October 21, 2010 is withdrawn.

The Examiner is required to examine to at least each of claims 1-14, 20-38, 42-46, 52-61, and 68 to the extent required to determine patentability as indicated above.

In the event that the elected species of the claims indicated above are found allowable, the Examiner is required to extend examination to non-elected embodiments. Further, if these claims are found allowable, the Examiner is further required to extend examination to embodiments encompassed by withdrawn claims. This includes the potential rejoinder of claims 18, 19, 39, 40, 41, and 47.

The application will be forwarded to the examiner for consideration of the papers filed on December 22, 2010 and for preparation of an Office action consistent with this decision.

Should there be any questions regarding this decision, please contact Supervisory Patent Examiner Zachariah Lucas, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-872-9306.



Irem Yucel
Director, Technology Center 1600



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/633,389	12/01/2006	Hirofumi Mori	06891/LH	2314
7590 11/17/2010 HOLTZ, HOLTZ, GOODMAN & CHICK PC 220 Fifth Avenue 16TH Floor NEW YORK, NY 10001-7708			EXAMINER BANKS HAROLD, MARSHA DENISE	
			ART UNIT 2482	PAPER NUMBER
			MAIL DATE 11/17/2010	DELIVERY MODE PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d) *The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management



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NIXON & VANDERHYE, PC.
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Patent No. 7,867,370
Issue Date: January 11, 2011
Application No. 11/633,434
Filed: December 5, 2006
Attorney Docket No. 2635-401

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ON PETITION

This is a decision on the petition filed December 7, 2010, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-2991. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

¹ See MPEP 1309, subsection II; and Official Gazette of June 22, 2004.



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DINSMORE & SHOHL LLP
FIFTH THIRD CENTER, ONE SOUTH MAIN STREET
SUITE 1300
DAYTON OH 45402-2023

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SEP 08 2010
OFFICE OF PETITIONS

In re Application of	:	
YANG et al.	:	DECISION ON
Application No. 11/633,559	:	APPLICATION FOR
Filed: 12/04/2006	:	PATENT TERM ADJUSTMENT
Docket No. OSU 0003 VA/41096.135	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(b)" filed March 19, 2010. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from 373 days to 433 days.

The application for patent term adjustment is GRANTED.

The Office has updated the PALM and PAIR screen to reflect that the corrected Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **433 days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 12, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 373 days. On March 19, 2010, applicants timely submitted the instant application for patent term adjustment.

Applicants dispute the reduction of 60 days for filing of the "SUPPLEMENTAL RESPONSE" on January 19, 2010, after a reply had been filed. See 37 CFR 1.704(c)(8). Applicants contend that

they submitted the "SUPPLEMENTAL RESPONSE" at the request of the examiner.

Applicants' contention is well taken. The record supports a conclusion that the supplemental reply filed January 19, 2010, was expressly requested by the examiner within the meaning of 37 CFR 1.704(c)(8). Accordingly, the reduction of 60 days is not warranted and is being removed.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is **433 days** (433 days of Office delay - 0 days of applicant delay).

Submission of the \$200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicant will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of updated PAIR screen

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 11/633,559

Filing or 371(c) Date:	12-04-2006	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	433
A Delays:	433	PTO Manual Adjustments:	60
B Delays:	0	Applicant Delays:	60
C Delays:	0	Total PTA Adjustments:	433

Patent Term Adjustment History**Explanation Of Calculations**

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
57	09-07-2010	Adjustment of PTA Calculation by PTO	60		0
41	02-12-2010	Mail Notice of Allowance			0
40	02-04-2010	Issue Revision Completed			0
39	02-04-2010	Document Verification			0
38	02-04-2010	Notice of Allowance Data Verification Completed			0
37	02-04-2010	Examiner's Amendment Communication			0
36	01-25-2010	Notice of Allowability			0
35	01-20-2010	Date Forwarded to Examiner			0
34	01-19-2010	Supplemental Response		60	32
33	01-13-2010	Date Forwarded to Examiner			0
32	11-20-2009	Response after Non-Final Action			0
31	09-10-2009	Mail Non-Final Rejection	6		19
30	07-20-2009	Non-Final Rejection			0
29	03-07-2007	Information Disclosure Statement considered			0
28	03-07-2007	Information Disclosure Statement (IDS) Filed			0
20	06-25-2009	Date Forwarded to Examiner			0
19	05-04-2009	Response to Election / Restriction Filed			0
18	04-06-2009	Mail Restriction Requirement	427		-1

17	04-03-2009	Requirement for Restriction / Election	0
16	06-26-2007	Case Docketed to Examiner in GAU	0
15	06-26-2007	Case Docketed to Examiner in GAU	0
14	05-17-2007	PG-Pub Issue Notification	0
13	03-25-2007	Case Docketed to Examiner in GAU	0
12	03-07-2007	Reference capture on IDS	0
11.7	03-07-2007	Information Disclosure Statement (IDS) Filed	0
10	02-09-2007	IFW TSS Processing by Tech Center Complete	0
9	02-05-2007	Application Dispatched from OIPE	0
8	02-05-2007	Application Is Now Complete	0
7	01-31-2007	Additional Application Filing Fees	0
6	01-31-2007	Applicant has submitted new drawings to correct Corrected Papers problems	0
5	01-19-2007	Corrected Paper	0
4	01-11-2007	Cleared by L&R (LARS)	0
3	12-16-2006	Referred to Level 2 (LARS) by OIPE CSR	0
2	12-12-2006	IFW Scan & PACR Auto Security Review	0
1	12-04-2006	Initial Exam Team nn	0

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1650 TYSONS BOULEVARD
SUITE 400
MCLEAN VA 22102

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Sanjeev Shankar et al.	:	DECISION ON PETITION
Application No. 11/633,626	:	TO WITHDRAW
Filed: December 5, 2006	:	FROM RECORD
Attorney Docket No. 597282000100	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36(b), filed December 22, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because the requested change in the correspondence address is improper.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71*, or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

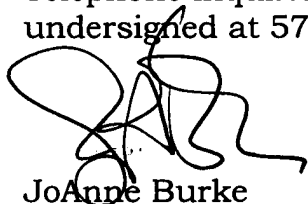
An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Therefore, as there is currently no Statement under 37 CFR 3.73(b) with the current assignee information of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw at this present time.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4584.

A handwritten signature in black ink, appearing to read 'JoAnne Burke', is written over the printed name.

JoAnne Burke
Petitions Examiner
Office of Petitions



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FEB 06 2012

OFFICE OF PETITIONS

**Lawrence Livermore National Security, LLC
LAWRENCE LIVERMORE NATIONAL LABORATORY
PO BOX 808, L-703
LIVERMORE CA 94551-0808**

In re Application of :
Kevin C. O'Brien et al. :
Application No. 11/633,860 : DECISION ON PETITION
Filed: December 4, 2006 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. IL-11745 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed January 31, 2012, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

- (1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

This pending nonprovisional application was filed on December 4, 2006, and is a continuation-in-part of application SN 11/486,669 which was filed July 14, 2006, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/700,650, which was filed on July 18, 2005, and for which priority is claimed.

A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed provisional application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 119(e) after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 119(e) is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See Dart Industries v. Banner*, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement, are required.

As authorized, the \$1,410 fee required by 37 CFR 1.78(a)(6)(ii) will be charged to petitioner's Deposit Account.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: Customer Service Window
 Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By fax: (571) 273-8300
 ATTN: Office of Petitions

Any questions concerning this matter may be directed to Carl Friedman at (571) 272-6842.



Carl Friedman
Petitions Examiner
Office of Petitions



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Lawrence Livermore National Security, LLC
LAWRENCE LIVERMORE NATIONAL LABORATORY
PO BOX 808, L-703
LIVERMORE CA 94551-0808

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MAR 01 2012

In re Application of	:	OFFICE OF PETITIONS
Kevin C. O'Brien et al	:	
Application No. 11/633,860	:	DECISION ON PETITION
Filed: December 4, 2006	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. IL-11745	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed February 10, 2012, and supplemented on February 21, 2012, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional application set forth in the amendment filed February 12, 2012.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

- (1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior filed provisional application accompanies this decision.

Any inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1712 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.



Carl Friedman
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt



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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
11/633,860	12/04/2006	1712	500	IL-11745	20	2

CONFIRMATION NO. 4077

CORRECTED FILING RECEIPT



OC000000052885373

24981

Lawrence Livermore National Security, LLC
LAWRENCE LIVERMORE NATIONAL LABORATORY
PO BOX 808, L-703
LIVERMORE, CA 94551-0808

Date Mailed: 03/01/2012

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Kevin C. O'Brien, San Ramon, CA;
Stephan A. Letts, San Ramon, CA;
Christopher M. Spadaccini, Oakland, CA;
Jeffrey D. Morse, Pleasant Hill, CA;
Steven R. Buckley, Modesto, CA;
Larry E. Fischer, Los Gatos, CA;
Keith B. Wilson, San Ramon, CA;

Assignment For Published Patent Application

The Regents of the University of California

Power of Attorney: The patent practitioners associated with Customer Number 24981

Domestic Priority data as claimed by applicant

This application is a CIP of 11/486,669 07/14/2006 PAT 7754281
which claims benefit of 60/700,650 07/18/2005

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see <http://www.uspto.gov> for more information.)

If Required, Foreign Filing License Granted: 01/19/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/633,860**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Preparation of membranes using solvent-less vapor deposition followed by in-situ polymerization

Preliminary Class

427

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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**DENIECE L. FELLOWS
7830 SANDPINE COURT
APT. 2202
NAPLES FL 34104**

MAILED

OCT 06 2010

OFFICE OF PETITIONS

In re Application of :
Deniece L. Fellows :
Application No. 11/633,964 : **DECISION ON PETITION**
Filed: December 5, 2006 :
Title: Device For Facilitating The Positional :
Stability Of An Individual Disposed Therein :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 3, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed November 25, 2009, which set a period for reply of one (1) month or thirty (30) days, whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 26, 2009. A Notice of Abandonment was mailed July 22, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item (2)

With regards to item (2) petitioner has submitted \$750.00 towards the required small entity petition fee of \$810.00, thus creating a \$60.00 shortage.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unintentional delay. The petition in the above-identified application was not accompanied by payment of the required fee. **No consideration on the merits can be given to the petition until the required fee is received.**

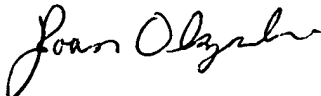
Further correspondence with respect to this matter should be addressed as follows:

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By hand: U.S Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By fax: (571) 273-8300
 ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.



Joan Olszewski
Petitions Examiner
Office of Petitions



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**DENIECE L. FELLOWS
7830 SANDPINE COURT
APT. 2202
NAPLES FL 34104**

MAILED

JAN 13 2011

OFFICE OF PETITIONS

In re Application of :
Deniece L. Fellows :
Application No. 11/633,964 : **DECISION ON PETITION**
Filed: December 5, 2006 :
Title: Device For Facilitating The Positional :
Stability Of An Individual Disposed Therein :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 19, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed November 25, 2009, which set a period for reply of one (1) month or thirty (30) days, whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 26, 2009. A Notice of Abandonment was mailed July 22, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment (previously submitted May 11, 2010), (2) the petition fee of \$810.00 and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

The application file is being referred to Technology Center AU 3676 for appropriate action on the amendment filed May 11, 2010.

Joan Olszewski
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4-12-12TO SPE OF : ART UNIT 2485SUBJECT : Request for Certificate of Correction for Appl. No.: 11633967 Patent No.: 8004572CofC mailroom date: 4-6-12

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the COCIN document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code COCX.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square - 9D40-E
Palm Location 7580

Note: _

Omega Lewis703-756-1575**Thank You For Your Assistance****The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

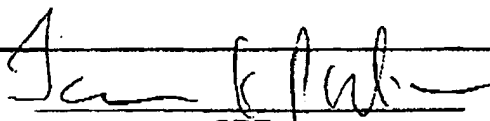
☐ **Approved in Part**

Specify below which changes do not apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____



SPE

2485

Art Unit



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P.O. Box 1450
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Venture Pacific Law, PC
5201 Great America Parkway, Suite 270
Santa Clara CA 95054

MAILED

DEC 13 2011

OFFICE OF PETITIONS

In re Application of
Winegarden, et al.
Application No.: 11/634,039
Filed: December 5, 2006
Attorney Docket No: **Agate-09**

:
:
: ON PETITION
:
:

This is in response to the petition under 37 CFR 1.137(b) filed November 21, 2011.

The petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely and proper manner to the final Office action mailed April 21, 2010. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). The application became abandoned on July 22, 2010. A Notice of Abandonment was mailed on November 26, 2010.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
- (2) the petition fee as set forth in 37 CFR 1.17(m);
- (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (1) above.

Examiner Marvin Payen has reviewed the amendment filed November 21, 2011, and determined that the amendment does not place the application in condition for allowance. The petition must, therefore, be dismissed. To be considered grantable, the renewed petition must be accompanied by an amendment that places the application in condition for allowance, a Request for Continued Examination under 37 CFR 1.114, or a Notice of Appeal and fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile:

(571) 273-8300
Attn: Office of Petitions

Questions regarding a proper response to be filed with any renewed petition must be addressed to Examiner Payen. Telephone inquiries concerning other aspects of this decision may be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



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ALEXANDRIA VA 22313-1404

MAILED

FEB 07 2012

OFFICE OF PETITIONS

In re Application of
Winegarden, et al.
Application No.: 11/634,039
Filed: December 5, 2006
Attorney Docket No: **Agate-09**

:
:
: ON PETITION
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This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 26, 2012, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned for failure to respond in a timely and proper manner to the final Office action mailed April 21, 2010. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). The application became abandoned on July 22, 2010. A Notice of Abandonment was mailed on November 26, 2010.

The Request for Continued Examination and amendment filed January 26, 2012, are noted.

The application file is being forwarded to Technology Center, GAU 2894 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FREDERICK W. GIBB, III
GIBB I.P. LAW FIRM, LLC
844 WEST STREET, SUITE 100
ANNAPOLIS, MD 21401

MAILED
JAN 21 2011
OFFICE OF PETITIONS

In re Application of	:
Gregory Elmer et al	:
Application No. 11/634,068	: DECISION GRANTING PETITION
Filed: December 5, 2006	: UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. U033 1060.1	:

This is a decision on the petition, filed January 21, 2011, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment. *See* 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09-08-10

TO SPE OF : ART UNIT ~~2147~~ 2834

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/634165 Patent No.: 7692344

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:


Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580


Angela Green 703-756-1541
Certificates of Correction Branch
703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: Approved.

/Quyen Leung/

2834

SPE

Art Unit



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Alon Wallach
Hamelacha 22
Rosh HAAIN 48091 IL
ISRAEL

MAILED
MAY 19 2011
OFFICE OF PETITIONS

In re Application of :
Alon Wallach :
Application No. 11/634181 :
Filing or 371(c) Date: 12/06/2006 : **ON PETITION**
Title of Invention: WIRELESS AND CCTV :
MEGAPIXEL DIGITAL CAMERA FOR :
SURVEILLANCE AND UNMANNED :
AIR VEHICLES :

This is a decision on the third petition to revive the application under 37 CFR 1.137(b), filed March 30, 2011, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed March 19, 2009. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on June 20, 2009. A Notice of Abandonment was mailed December 1, 2009

Applicant files the present petition and includes an Amendment in response to the Office action. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 2622 for processing of the Amendment filed with the petition in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions



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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

MAILED
DEC 02 2011
OFFICE OF PETITIONS

In re Patent No. 8,051,858	:	
Issue Date: November 8, 2011	:	
Application No. 11/634,206	:	ON PETITION
Filed: December 6, 2006	:	
Attorney Docket No. LCM-5002-2	:	

This is a decision on the petition filed November 14, 2011, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the April M. Wise at (571) 272-1642. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

¹ See MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed : March 28, 2011
Serial no. : 11/634212
Patent no. : 7,379,874 B2
Patent Issued : May 27, 2008
Inventor(s) : Phillipp Heinz Schmid, et al.
Title : MIDDLEWARE LAYER BETWEEN SPEECH RELATED APPLICATIONS
AND ENGINES

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above identified patent..

Respecting the alleged errors(s) noted in your request, column 9, line 55-65 and line 58 is printed in accordance with the record.

In view of the foregoing your request is hereby denied.

Further consideration will be given upon receipt of a Request for Reconsideration, which should be directed to Decisions and Certificate of Correction Branch. Request for Reconsideration should be accompanied by additional support (e.g. copy of amendments, etc.) containing requested data or changes and/or brief statements of facts, as requested.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decision and Certificate
Of Correction Branch
(571)272-0423

CPA GLOBAL
P.O. BOX 52050
Minneapolis, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed : March 28, 2011
Serial no. : 11/634212
Patent no. : 7,379,874 B2
Patent Issued : May 27, 2008
Inventor(s) : Phillipp Heinz Schmid, et al.
Title : MIDDLEWARE LAYER BETWEEN SPEECH RELATED APPLICATIONS
AND ENGINES

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above identified patent..

Respecting the alleged errors(s) noted in your request, column 9, lines 55-65 and line 58 is printed in accordance with the record.

In view of the foregoing your request is hereby denied.

Further consideration will be given upon receipt of a Request for Reconsideration, which should be directed to Decisions and Certificate of Correction Branch. Request for Reconsideration should be accompanied by additional support (e.g. copy of amendments, etc.) containing requested data or changes and/or brief statements of facts, as requested.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decision and Certificate
Of Correction Branch
(571)272-0423

CPA GLOBAL
P.O. BOX 52050
Minneapolis, MN 55402



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MAILED

MAR 25 2011

OFFICE OF PETITIONS

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Patent No. 7,920,161
Issue Date: April 5, 2011
Application No. 11/634,264
Filed: December 6, 2006
Attorney Docket No. 08806.0203-00000

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed February 16, 2011.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Robert E. Converse appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

MAR 25 2011

OFFICE OF PETITIONS

**FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110**

In re Application	:	
Jeff Weers	:	DECISION ON PETITION
Application No. 11/634,343	:	TO WITHDRAW
Filed: December 5, 2006	:	FROM RECORD
Attorney Docket No. TRA-01301	:	

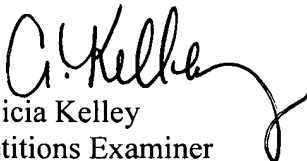
This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 9, 2011.

The request is **DISMISSED** because it is moot.

A review of the file record indicates that Foley Hoag, LLP, was revoked as attorney of record by the applicant on March 14, 2011, by the applicant. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address of record until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.


Alicia Kelley
Petitions Examiner
Office of Petitions

cc: GREENBERG TRAURIG, LLP
200 PARK AVE.
P.O. BOX 677
FLORHAM PARK NJ 07932



UNITED STATES PATENT AND TRADEMARK OFFICE

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MILLER NASH LLP
601 UNION STREET
SUITE 4400
SEATTLE WA 98101-2352

MAILED
MAR 23 2011
OFFICE OF PETITIONS

In re Application of	:	
Steve Moger	:	DECISION REFUSING STATUS
Application No. 11/634,397	:	ON PETITION
Filed: December 5, 2006	:	
Attorney Docket No. 542401-0049	:	

This is a decision on the petitions filed November 17, 2010 which are being collectively being treated as (1) a request under 37 CFR 1.48(a) to amend the inventive entity by the addition of Tanya Borek, (2) a petition under 37 CFR 1.47(a) to accept this application notwithstanding the absence of the signature of the newly added inventor, and (3) under 37 CFR 1.183 requesting waiver of the requirement under 37 CFR 1.64 that all the originally signing inventors also execute the supplemental oath or declaration filed November 17, 2010.

The fee for a petition filed under 37 CFR 1.183 has been charged to petitioner's deposit account.

The petitions are **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR §§1.47(a), 1.183 and 1.48(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration and a statement of lack of deceptive intent executed by the currently non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

If the inventive entity is set forth in error in an executed § 1.63 oath or declaration in a nonprovisional application, and such error arose without any deceptive intention on the part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the inventorship of the nonprovisional application may be amended to name only the actual inventor or inventors.

In those instances wherein a request under 37 CFR 1.48(a) and a petition under 37 CFR 1.47 have both been filed in an application, the Office of Petitions may first issue a decision on the request under 37 CFR 1.48(a) so as to determine the appropriate oath or declaration under 37 CFR 1.63 required for the petition under 37 CFR 1.47. In those situations where, as here, a newly added inventor refuses to execute a supplemental oath or declaration under 37 CFR 1.64, waiver under 37 CFR 1.183 of the

requirement for an additional signature would be appropriate upon a showing of such refusal or inability to reach the inventor. Every existing assignee of the original named inventors must give its consent to the requested correction. Where there is more than one assignee giving its consent, the extent of that interest (percentage) should be shown. Where no assignment has been executed by the inventors, or if deletion of a refusing inventor is requested, waiver will not be granted absent unequivocal support for the correction sought. Petitions under 37 CFR 1.47 are not applicable to the requirement for signatures from each originally named inventor on the supplemental oath or declaration.

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

- (1) A request to correct the inventorship that sets forth the desired inventorship change;
- (2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
- (3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
- (4) The processing fee set forth in § 1.17(i); and
- (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b)).

The request under 37 CFR 1.48(a) lacks compliance with items (2), (3) and (5). In regard to items (2) and (3), as indicated below the waiver requirement for signature has not been granted. In regard to item (5), the written consent of the assignee cannot be accepted as there is no statement under 37 CFR 3.73 that gives Steve Moger the authority to sign on behalf of the assignee.

The petition requesting waiver under 37 CFR 1.183 of the requirement in 37 CFR 1.64 for execution of the supplemental oath or declaration and the statement by Borek, cannot be granted at this time.

On very infrequent occasions, the requirements of 37 CFR 1.64 have been waived upon the filing of a request and the fee set forth in § 1.17(f) for a petition under 37 CFR 1.183 (along with the supplemental oath or declaration) to permit the acceptance of that supplemental oath or declaration signed by less than all the originally signing named inventors. Petitions under 37 CFR 1.47 are only applicable to the initial execution of an original oath or declaration by a given inventor. In such circumstances, the USPTO will consider a petition under 37 CFR 1.183 requesting waiver of the requirement of 37 CFR 1.64 that each of the actual inventors execute the supplemental oath or declaration, particularly where assignee consent is given to the requested correction. Absent assignee consent, the petition under 37 CFR 1.183 requesting waiver of the execution of the oath or declaration will be evaluated as to whether the nonsigning inventor was actually given the opportunity to execute the oath or declaration, or whether the nonsigning inventor could not be reached. In essence, petitioner must show that the inability to again obtain the signature statement from the nonsigning inventor Borek is, notwithstanding the exercise of reasonable care and diligence, due to circumstances beyond his control.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee set forth in § 1.17(g); and

(4) a statement of the last known address of the non-signing inventor. The petition lacks item (1) set forth above.

As to item (1), the applicable statute (35 U.S.C. § 116) requires that a "diligent effort" have been expended in attempting to find or reach the non-signing inventor. See MPEP 409.03(a). The showing currently fails to demonstrate, with a documented showing, that a diligent effort was made to find or locate non-signing inventor Borek, such that the declaration can be accepted under 37 CFR 1.47(a). Where inability to find or locate a named inventor(s) is alleged, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made to locate the inventor.

Petitioner has not demonstrated that all efforts were expended in trying to locate inventor non-signing Borek. In this regard, petitioner should, at the very least, conduct a search of the regional or national registry(s) such as the Internet. The results of such search should be made in any future petition for reconsideration. See MPEP 409.03(d). Additionally, petitioner should state whether he has access to inventor Borek's personnel records and, if so, what does inspection of the records reveal as to a current address, forwarding address, or an address of the nearest living relative? What does inspection of the phone directories for those address locations reveal? Further, the petition fails to indicate that correspondence was ever mailed unsuccessfully to the inventor's last known address. Therefore, at the very least, petitioner should mail correspondence to the inventor's last known address, return receipt and/or forwarding address requested. If a forwarding address is provided, petitioner should then mail a complete copy of the application papers (specification, claims, drawings, oath, etc.) to Ms. Borek's address, return receipt requested, along with a cover letter of instructions which includes a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. If the papers are returned and all other attempts to locate or reach the inventor, e.g., through personnel records, co-workers, E-mail, the Internet or the telephone, etc., continue to fail, then applicant will have established that the inventor cannot be reached after diligent effort or has refused to join in the application. The statements of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein and should be accompanied by documentary evidence in support of the statement of facts. It is important that the forthcoming communication contain statements of fact as opposed to conclusions.

Where there is an express or oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration by the party to whom the refusal was made. Where there is a written refusal, a copy of the document(s) evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the rule 47 applicant that an omitted inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted.

Whenever an omitted inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

Further, there appears to be some confusion as to the actual last name of Tanya Borek as the petition seems to indicate her last name has been changed to Raco. If her last name is now Raco, a supplemental declaration by all the actual inventors should reflect this correct last name.

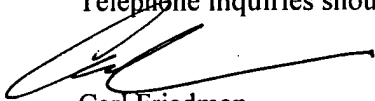
Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By Hand: U. S. Patent and Trademark Office
 Customer Window, Mail Stop PETITIONS
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to the undersigned at (571) 272-6842.



Carl Friedman
Petitions Examiner
Office of Petitions



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MILLER NASH LLP
601 UNION STREET
SUITE 4400
SEATTLE WA 98101-2352

MAILED

JUL 07 2011

OFFICE OF PETITIONS

In re Application of
Christopher London et al.
Application No. 11/634,397
Filed: December 5, 2006
Attorney Docket No. 542401-0049

:
:
DECISION
: AMENDING INVENTORSHIP
:

This is a decision on the renewed petition filed June 27, 2011, which is being treated under 37 CFR §§ 1.183, 1.47(a) and 1.48(a) to amend the inventive entity and to waive the signature requirement from a person being added as an inventor. The first petition under 37 CFR 1.183 requesting waiver of the signature requirement of an inventor being added was filed November 17, 2010 and was dismissed in a decision mailed March 23, 2011.

The petition under 37 CFR 1.183 is **Dismissed as being Moot** in view of the signed declaration.

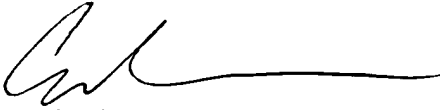
The petition under 37 CFR 1.48 is **Granted**.

In view of the papers filed June 27, 2011, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, failed to properly set forth the inventorship, and accordingly, the inventorship has been corrected in compliance with 37 CFR 1.48(a). The inventorship has been changed by the deletion of Steve, Moger and the addition of:

Christopher London
Stephen J. Turner
Michael P. Hite
Catherine Federici
Tanya Borek

This application is being referred to the Technology Center Art Unit 1653.

Telephone inquiries regarding this decision should be directed to Carl Friedman at (571) 272-6842.

A handwritten signature in black ink, appearing to be 'Carl Friedman', with a long horizontal stroke extending to the right.

Carl Friedman
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
11/634,397	12/05/2006	1653	3905	542401-0049	115	9

CONFIRMATION NO. 7322

CORRECTED FILING RECEIPT



OC000000048612563

24187
MILLER NASH LLP
601 UNION STREET
SUITE 4400
SEATTLE, WA 98101-2352

Date Mailed: 07/07/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Christopher London, Redmond, WA;
Stephen J. Turner, Snoqualmie, WA;
Tanya Borek, Bellevue, WA;
Catherine Federici, Seattle, WA;
Michael P. Hite, Normandy Park, WA;

Assignment For Published Patent Application

Nutraceutix, Inc.

Power of Attorney: The patent practitioners associated with Customer Number 24187

Domestic Priority data as claimed by applicant

This application is a CIP of 10/261,639 09/30/2002
which claims benefit of 60/325,937 09/28/2001

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see <http://www.uspto.gov> for more information.)

If Required, Foreign Filing License Granted: 01/23/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/634,397**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Delivery system for biological component

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER**Title 35, United States Code, Section 184****Title 37, Code of Federal Regulations, 5.11 & 5.15****GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DENNIS C. NICHOLS
2110 N. 147TH STREET
BASEHOR, KS 66007-9623

MAILED
AUG 30 2010
OFFICE OF PETITIONS

In re Application of
Dennis C. Nichols
Application No. 11/634,453
Filed: December 7, 2006
Attorney Docket No. N/A

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(a), filed June 14, 2010, to revive the above-identified application.

This application became abandoned for failure to respond to the final Office action mailed June 20, 2008. A Notice of Abandonment was mailed on January 7, 2009.

The petition is **dismissed**.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lack items (1) and (3).

Petitioner states "I have received no contact from this attorney and no contact from anyone in his law firm regarding this application. I discovered the status of this application when I became very concerned over the fact that it has been so long since this process was started. Mr. Day informed me that it might take one to two years in the beginning, so acting in good faith, I believed that I would be contacted regarding the status of this application. I sent emails to this attorney, requesting information regarding this application and have had no contact whatsoever from him. I was never made aware that there was an office action that needed to be responded to and I so I have not even been allowed the opportunity to address that action, nor am I even aware of what the action entails."

With respect to item (1), the undersigned empathizes with petitioner; however, the provisions under 37 CFR 1.137 require that a reply to an Office action/Notice must be filed¹. Therefore, revival of the above application cannot occur until a response to the Office action has been received². To complete petitioner's records, enclosed is a courtesy copy of the Office action mailed June 20, 2008.

With respect to item (3), applicant is bound by the consequences of the actions or inactions of his duly authorized and voluntarily chosen representative. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Houston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987).

Petitioner asserts that he has had no contact from the attorney or anyone from the law firm and that emails have gone unanswered. Unfortunately, petitioner did not submit copies of any emails between himself and the attorney/law firm. Thus, the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 35 U.S.C. § 151 and 37 CFR 1.137(a).

Since the record indicates that Wm. Bruce Day was responsible for prosecution of the application when the reply necessary to avoid abandonment was due, petitioner must provide a statement from Mr. Day explaining why action was not timely taken to prevent the application from becoming abandoned.

Petitioner is advised to send a letter (accompanied by a copy of this decision) to Wm. Bruce Day at Wm. Bruce Day/Day Law Firm PC, 409 E Santa Fe Trail, Kansas City, MO 64145-1060, by certified or registered mail (return receipt requested) indicating that the U.S. Patent and Trademark Office (USPTO) is requesting assistance in ascertaining the cause of abandonment of the above-identified application, and that the USPTO is requesting that he provide within a specified period (e.g., one month) a statement setting forth why appropriate action was not timely taken to prevent the application from becoming abandoned. Petitioner is advised that, in the event that Mr. Day does not provide such a statement, petitioner should submit a copy of such letter and a copy of the return receipt

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

¹ The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, a request for continued examination (RCE) under 37 CFR 1.114, or the filing of a continuing application (See MPEP 711.03(c)(III)(A)(2)).

² Petitioner should note that filing the required items should not be construed as meaning that the petition will be granted under the provisions of 37 CFR 1.137(a).

The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are

made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Petitioner should also note that he has an alternate remedy under the unintentional provisions of 37 CFR 1.137(b) which does not require a showing of the delay in timely responding to the Office action mailed June 20, 2008. However, effective October 2, 2008, an unintentional petition under 37 CFR 1.137(b) must be accompanied by the \$810 petition fee. A courtesy copy of a Petition under 37 CFR 1.137(b) is enclosed for petitioner's convenience.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition." This is not a final agency action within the meaning of 5 U.S.C. § 704.

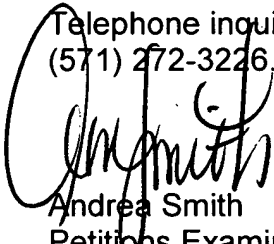
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to Andrea Smith at
(571) 272-3226.



Andrea Smith
Petitions Examiner
Office of Petitions



David Buccì
Petitions Examiner

Enclosure: Courtesy Copy of the Office action mailed June 20, 2008 and a Petition for
Revival of an Application Abandoned Unintentionally under 37 CFR
1.137(b) – (Form PTO/SB/64).



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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/634,453	12/07/2006	Dennis C. Nichols		4062

7590 06/20/2008
WM BRUCE DAY
DAY LAW FIRM PC
SUITE 300
4330 BELLEVIEW
KANSAS CITY, MO 64111

EXAMINER

MCDUFFIE, MICHAEL D

ART UNIT	PAPER NUMBER
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3632

MAIL DATE	DELIVERY MODE
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06/20/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	11/634,453	NICHOLS, DENNIS C.	
	Examiner	Art Unit	
	MICHAEL MCDUFFIE	3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 December 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3632

This correspondence is in response to applicant's reply filed on 05/06/2008. Claims 6-10 are pending.

DETAILED ACTION

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Orr (U.S. Patent No.: 6142488).

Regarding claims 6 and 7, Orr discloses a stand for supporting a vehicle above a floor surface and comprising: spaced support legs **30,31** arranged in an A frame manner and each having lower end feet **36** and with upper ends joined together by a connector **53** permitting folding of the legs **30,31** together, the legs **30,31** being telescopically adjustable for varying height of the stand (see col. 3, lines 9-11); a crossbar **33** swingably and at least partially removable from the support legs **30,31** and when connected, extending between the legs **30,31** and maintaining the legs **30,31** in spaced A frame configuration with upper ends connected to each other; and a universal bracket **56** mounted to the support legs **30,31** at upper ends thereof.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

Art Unit: 3632

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Orr in view of Herndon (U.S. Patent No.: 3933372).

Orr is discussed above, and fails to teach where the feet are swingably mounted to the legs. Herndon teaches feet **18** that are swingably attached to the legs **12** (via **20**).

It would have been obvious to one having ordinary skill in the art at the time of the invention, to utilize the feet of Herndon in place of the feet of Orr, in order to provide a stabilizing and support assembly which automatically adjusts for compacting and shifting of the ground underneath the support leg, which if not adjusted for, results in the support leg becoming loose which allows the trailer to become unstable, as taught to be desirable by Herndon (see col. 2, lines 54-59).

Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Orr in view of Rivolta (U.S. Patent No.: 3317218).

Regarding claim 9, Orr is discussed above, and fails to teach a plurality of holes on the universal bracket.

With regards to claim 10, Orr discloses a stand for supporting a vehicle above a floor surface and comprising: spaced support legs **30,31** arranged in an A frame manner and each having lower end feet **36** and with upper ends joined together by a connector **53** permitting folding of the legs **30,31** together, the legs **30,31** being telescopically adjustable for varying height of the stand (see col. 3, lines 9-11); a crossbar **33** swingably and at least partially removable from the support legs **30,31** and when connected, extending between the legs **30,31** and maintaining the legs **30,31** in spaced A frame configuration with upper ends connected to each other; and a universal bracket **56** mounted to the support legs **30,31** at upper ends thereof.

Rivolta teaches a universal bracket **22** that has a plurality of holes **27** therethrough for fitting studs and bolts connectible to a hub.

It would have been obvious to one having ordinary skill in the art at the time of the invention, to replace the U-bracket **53** of Orr with the U-bracket **22** of Rivolta, in order to adapt the device for vehicles having different sizes and types of drums, as taught to be desirable by Rivolta (see col. 2, lines 62-64).

Response to Arguments

Applicant's arguments with respect to claims 1-5 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

Art Unit: 3632

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL MCDUFFIE whose telephone number is (571)272-3832. The examiner can normally be reached on Mon.-Fri., 7AM-3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3632

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael McDuffie/
Examiner, Art Unit 3632
10-Jun-08

/Gwendolyn Baxter/
Primary Examiner, Art Unit 3632



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Date : 9/8/2011
Patent No. : 7,964,715 B2
Serial No. : 11/634,488
Inventor(s) : Pham et al.
Issued : June 21, 2011
Title : **PROMOTER SEQUENCES AND THE USE THEREOF**
Docket No. : **961094.00022**

Re: Request for Reconsideration

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A petition is required to correct the Assignee, under 37 CFR 1.183, and should include: (1) the petition fee set forth in 37 CFR 1.117(h) (currently \$130); (2) the correct name and address of the assignee; (3) the reel and frame number where the assignment is recorded or proof of the date the assignment was submitted for recordation.

A request for a patent to be corrected to state the name of the assignee must:

- A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
- B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
- C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: Customer Service Window
 Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By fax: 571-273-8300
 ATTN: Office of Petitions

If a fee (currently \$100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Ernest C. White, *LIE*
ernest.white@uspto.gov
(571) 272-3385
For Mary F. Diggs (703) 756-1580
Decisions & Certificates
of Correction Branch

QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE, SUITE 2040
MILWAUKEE WI 53202-4497

ecw



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MILWAUKEE WI 53202-4497

MAILED
FEB 06 2012
OFFICE OF PETITIONS

In re Patent No. 7,964,715 :
Issue Date: June 21, 2011 :
Application No. 11/634,488 : **DECISION ON PETITION**
Filed: December 6, 2006 :
Attorney Docket No. 961094.00022 :

This is a decision on the Petition Under 37 C.F.R. §1.183 To Correct Assignee After Issuance Of Patent And Request For Certificate Of Correction, filed October 6, 2011, to add –WiSys Technology Foundation-- as the correct assignee's name to the Title Page of the Patent via a Certificate of Correction.

The petition under 37 CFR §3.81(b) is **DISMISSED**.

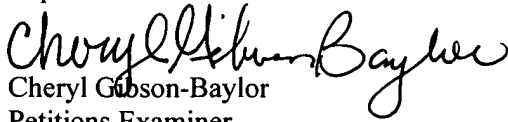
Petitioner urges that the present Petition was submitted to add –WiSys Technology Foundation, Madison, WI—as the correct assignee's name on the previously submitted PTOL-85B and such error was incorrect.

37 CFR 3.81(b), effective June 25, 2004, reads:

After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in §3.11 before issuance of the patent, and must include a request for a certificate of correction under §1.323 of this chapter (accompanied by the fee set forth in §1.20(a) and the processing fee set forth in §1.17(i) of this chapter.

A review of United States Patent and Trademark Office (USPTO) record reveals that the assignment documents recorded at Reel: 019400, Frame: 0985 on June 8, 2007 identifies *Wisconsin Alumi Research Foundation* as the assignee. However, the present petition requests that the assignee information be changed to *WiSys Technology Foundation, Madison, WI*. However, since a change of assignee's name was not filed before the issuance of the patent, the instant petition cannot be granted.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.


Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions



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CHOATE, HALL & STEWART LLP/WYETH LLC
PATENT GROUP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

MAILED

JAN 25 2011

OFFICE OF PETITIONS

In re Application of
Nitin K. Damle, et al.
Application No. 11/634,502
Filed: December 6, 2006
Attorney Docket No. 2004658-0528

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 20, 2010.

The request is **NOT APPROVED**.

The Office strongly encourages practitioner(s) requesting withdrawal from representation as practitioner of record in an application to review the record to determine whether he or she is, in fact, of record and how he or she was made of record. The practitioner(s) should determine whether he or she was appointed by naming each practitioner individually or through the use of a Customer Number. If the practitioner(s) were appointed by a specific designation, then the request should ask that each specified practitioner be withdrawn and should list each practitioner(s) in the Request. Similarly, if practitioner(s) was appointed by a Customer Number, the practitioner(s) should ensure that the correct number is provided in the Request. Additionally, as set forth in MPEP 403(I), the addition or deletion of a practitioner from the list of persons associated with a Customer Number should be done by way of a *Request for Customer Number Data Change* (PTO/SB/124) and not a *Request for Withdrawal As Attorney or Agent and Change of Correspondence Address* (PTO/SB/83).

Accordingly, the request cannot be approved because practitioners were appointed by customer number. Practitioners must withdraw using the same customer number by which they were appointed.

Petitioner should also note that the Office will no longer accept address changes to a new practitioner of a law firm filed with a Request for Withdrawal as attorney of record, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the

assignee of the entire interest who properly became of record under 37 CFR 3.71 or, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record does not include an acceptable current correspondence address for future communications from the Office.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

Additionally, as set forth in MPEP 403(I), the addition or deletion of a practitioner from the list of persons associated with a Customer Number should be done by way of a *Request for Customer Number Data Change* (PTO/SB/124) and not a *Request for Withdrawal As Attorney or Agent and Change of Correspondence Address* (Form PTO/SB/83).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEAN A. CRAINE
9-LAKE BELLEVUE DRIVE
SUITE 208
BELLEVUE WA 98005

MAILED
MAR 28 2011
OFFICE OF PETITIONS

In re Application of :
ABOUD :
Application No. 11/634,542 :
Filed: December 5, 2006 :
Docket No. ABOM 101 :
DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 12, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed, June 25, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 26, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of \$810; and (3) and the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 3726 for appropriate action by the Examiner in the normal course of business.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions



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HOFFMANN-LA ROCHE INC.
PATENT LAW DEPARTMENT
340 KINGSLAND STREET
NUTLEY NJ 07110

MAILED

OCT 06 2010

OFFICE OF PETITIONS

In re Patent No. 7,696,240 : DECISION ON REQUEST
Banner et al. : FOR
Issue Date: 04/13/2010 : RECONSIDERATION OF
Application No. 11/634,584 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 12/05/2006 :
Atty Docket No. :
23447 :

This is a decision on the REPLY TO DECISION DISMISSING THE APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705, filed on June 25, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by two hundred sixty-four (264) days.

The petition to correct the patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of one hundred thirty-five (135) days.

On April 13, 2010, the subject application issued as U.S. Patent No. 7,696,240, with a patent term adjustment of 135 days. On May 25, 2010, an initial petition under 37 CFR 1.705(d) was filed, accompanied by the required fee under 37 CFR 1.18(e). On June 2, 2010, however, the Office mailed a Decision on Request for Recalculation of Patent Term Adjustment in View of *Wyeth*, stating the request was ineligible for consideration. On June 25, 2010, the subject reply was filed, stating that recalculation had not been requested, but rather an application for patent term adjustment under 37 CFR 1.705. As such, the petition is granted to the extent that the petition under 37 CFR 1.705(d) has been considered.

As to the "B" delay period, any time consumed by continued examination of the application under 35 U.S.C. 132(b) is not included. See 35 U.S.C. 154(b)(1)(B)(i). On September 25, 2009, a request for continued examination (RCE) was filed, prior to the day after the date three years after the date application was filed, December 6, 2009. Accordingly, the entire period under § 1.702(b) is consumed by continued examination, and the "B" delay period is 0 days.

Accordingly, no change will be made to the patent term adjustment of 135 days (220 days Office delay + 0 days three years delay – 85 days of applicant delay) indicated on the face of the patent.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

A handwritten signature in black ink, appearing to read "D. Wood", is positioned above the printed name.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions



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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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KAGAN BINDER, PLLC
SUITE 200, MAPLE ISLAND BUILDING
221 MAIN STREET NORTH
STILLWATER, MN 55082

Mail Date: 08/02/2010

Applicant	: Mark T. Girard	: DECISION ON REQUEST FOR
Patent Number	: 7656540	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/634,813	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/06/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **86** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 4, 2011

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No. 11/635058 patent No.: 7700718

C of C mailroom date: 09-10-10

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch
571-272- 0423

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes do not apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

Carol Tsang

SPE

1654

Art Unit



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : 8/3/2010
Patent No. : 7,682,242 B2
Serial No. : 11/635,059
Inventor(s) : Okada
Issued : March 23, 2010
Title : **SLOT MACHINE AND PLAYING METHOD THEREOF**
Docket No. : **MIY.001.0142.NP**

Re: Request for Reconsideration

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

- A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
- B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
- C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile

number:

By mail: Mail Stop PETITIONS
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: Customer Service Window
 Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By fax: 571-273-8300
 ATTN: Office of Petitions

If a fee (currently \$100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

A certificate of correction will be issued for the remaining errors noted in your request.

Ernest C. White, *LIE*
For Mary F. Diggs (703) 756-1580
Decisions & Certificates
 of Correction Branch
(703) **756-1590**

NDQ&M WATCHSTONE LLP
300 NEW JERSEY AVENUE, NW
FIFTH FLOOR
WASHINGTON DC 20001

ecw



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United States Patent and Trademark Office
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MAILED

MAY 06 2011

OFFICE OF PETITIONS

NDQ&M WATCHSTONE LLP
300 NEW JERSEY AVENUE, NW
FIFTH FLOOR
WASHINGTON, DC 20001

In re Patent of Okada	:	
Patent No. 7,682,242	:	
Issue Date: March 23, 2010	:	Letter
Application No. 11/635,059	:	
Filing Date: December 7, 2006	:	
Attorney Docket No. MIY.001.0142.NP	:	

This is a decision in response to request to accept the correction of the assignee data on the front page of the above-identified patent filed under 37 C.F.R. § 3.81(b) on March 2, 2011.

The request is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 C.F.R. § 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Request Under 37 C.F.R. § 3.81(b)."

Pursuant to 37 C.F.R. § 3.81(b), a request for a patent to be corrected by adding or amending assignee information on the patent must:

- (1) Include the fee set forth in 37 C.F.R. § 1.17(i),
- (2) State an assignment to the assignee was submitted for recordation prior to issuance of the patent, and
- (3) Include a proper request for a certificate of correction under 37 C.F.R. § 1.323 and the fee set forth in 37 C.F.R. § 1.20(a).

Patentee has failed to meet requirement (3) listed above.

In essence, the instant request seeks issuance of a certificate of correction including language similar to the language below:

On the Title Page, Item 73

Delete "Universal Entertainment Corporation, Tokyo (JP)" and insert -- Aruze Gaming America, Inc.--

In order for the name of an assignee to be set forth on a patent, a party must provide the name of the assignee and an address for the assignee. The address must identify a city and state if the assignee is located in the United States. The address must identify a city and country if the assignee is located outside the United States.

Neither the request nor the draft certificate of correction filed with the request identifies an address for Aruze Gaming America, Inc. Therefore, the request for a certificate of correction is improper and the instant request cannot be granted.

Any request for reconsideration should clearly identify the assignee *and* the assignee's address to be added to the patent.

Further correspondence with respect to this matter may be submitted as follows:

By Internet: A request for reconsideration may be filed electronically using EFS Web.¹
Document Code "PET.OP" should be used if the request is filed electronically.

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

¹ General Information concerning EFS Web can be found at <http://www.uspto.gov/patents/process/file/efs/index.jsp>.



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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

MAILED

MAY 19 2011

OFFICE OF PETITIONS

In re Application of :
MICHAEL TINKER et al :
Application No. 11/635,063 : DECISION ON PETITION
Filed: December 7, 2006 :
Attorney Docket No. **BR-0040 :

This is a decision on the petition filed May 16, 2011, "Petition Under 37 CFR 1.183 to Waive the Requirement of a Supplemental Reissue Declaration Under 37 CFR 1.175(b) With Regard to Inventor Pollack, and Supplemented May 17, 2011. The petition is being treated pursuant to 37 CFR 1.183 for waiver of 37 CFR 1.175(b) in addition to waiver of 37 CFR 1.121(i). The fee of \$400.00 required under 37 CFR 1.17(f) has been received.

The petition is **GRANTED**.

37 CFR 1.183 provides that in an extraordinary situation, when justice requires, any requirement of the regulations which is not a requirement of the statutes may be suspended or waived by the Commissioner. Here the present application requires a supplemental oath which was filed on May 16, 2011, and signed by all inventors except Jeremy D. Pollack.

Petitioner asserts that, inventor Jeremy D. Pollack has refused to review or sign the supplemental reissue declaration. A declaration from Laura Rae Workman, the person who is authorized to handle the matters of locating and confirming the address of inventors, sending documents to the inventors for review and signature, and corresponding with the inventor for administrative issues, has been submitted. The record indicates that the telephone communication with inventor Jeremy D. Pollack relating to the above identified application, including a discussion of the need for a supplemental declaration or supplemental oath, and the response by the inventor, constitutes demonstration of a refusal to sign. The Declaration indicates "...quite firm in his refusal to review or sign the documents ..."; "He said he did not want to see any documents...." This will be deemed to be evidence of due diligence here, and is considered to be sufficient for granting the petition. The rule will be waived to comply with the requirements of a reissue oath. The request under 37 CFR 1.183 to waive the requirements of 37 CFR 1.175(b) and 37 CFR 1.121(i) is granted. The supplemental declaration filed May 16, 2011 is accepted and will be entered.

The reissue application file is being forwarded to the Office of Data Management for further action as appropriate.

Telephone inquiries related to this decision should be addressed to the undersigned at (571) – 272-0602.

A handwritten signature in black ink, appearing to read 'Thurman K. Page', with a stylized, flowing script.

Thurman K. Page
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/635,130	12/06/2006	Ryuji Sakai	6639P249	5711
7590 02/22/2011 BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP 1279 OAKMEAD PARKWAY SUNNYVALE, CA 94085-4040			EXAMINER BANKS HAROLD, MARSHA DENISE	
			ART UNIT 2482	PAPER NUMBER
			MAIL DATE 02/22/2011	DELIVERY MODE PAPER

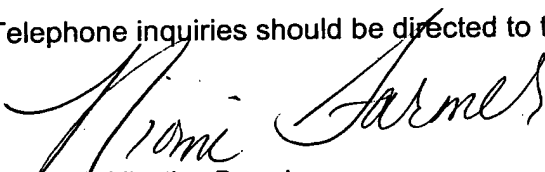
DECISION GRANTING PETITION UNDER 37 CFR 1.138(d) *The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.


Patent Publication Branch
Office of Data Management



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SEP 14 2010

Brian J. Lum
Ice Miller, LLP
Suite 3500
200 West Madison Avenue
Chicago, IL 60606

In re Application of	:	DECISION ON THE PETITION
Peter Grawenhof et al.	:	FOR SUPERVISORY REVIEW
Application No. 11/635,198	:	OF WITHDRAWAL OF
Filed: December 7, 2006	:	CLAIMS BY THE EXAMINER
For: UNIVERASAL JOINT ARRANGEMENT		

Applicant's petition under 37 CFR 1.144, filed August 10, 2010, requests the supervisor to mandate that the examiner rejoin dependent claims to a non-elected species previously withdrawn, and to find that the election of species requirement be withdrawn for an additional non-elected, withdrawn species.

The petition is **GRANTED in part** to the extent indicated below.

A review of the file record indicates that an election of species requirement was made on January 16, 2009 by the examiner which indicated that 5 separate species were present. The examiner also indicated that claim 1 was generic. On February 16, 2009 the applicant elected Species I with traverse. On June 19, 2009 the examiner made the requirement final and held claims 13-31 as withdrawn as being drawn to non-elected species. After further prosecution the examiner issued an Ex parte Quayle action on June 10, 2010 that indicated that claims 1-12 are allowed and that the applicant must cancel withdrawn claims 13-31 or take other appropriate action. The applicant then filed an amendment and the instant petition on August 10, 2010 that argued that claims 13-31 are subject to rejoinder or should be examined.

Specifically, the applicant argues that because claims 13-20 are dependent upon allowed claim 1, they should be rejoined. Also, it is argued that claims 21-31 should be examined due to there being no burden on the Office since the search for the elected species would be similar to that for the species associated with claims 21-31.

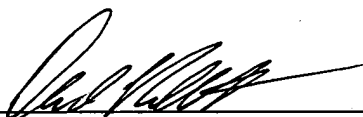
"In order to be eligible for rejoinder, a claim to a nonelected invention must depend from or otherwise require all the limitations of an allowable claim". MPEP 821.04. Because claims 13-20 are dependent upon allowable claim 1, it is agreed that claims 13-20 be rejoined and receive an examination on the merits.

As to claims 21-31, they do not depend from, nor otherwise require all the limitations of an allowable generic claim and therefore do not qualify for rejoinder. Because claims 21-31 contain structural elements mutually exclusive from claims 1-20, such as the limitation of an

axial bearing pressure disk, claims 21-31 would require a different field of search with respect to a classification search and/or text search, and thus would impose an undue burden upon the examiner if an examination on the above claims were required.

The petition for the rejoinder of the claims withdrawn upon election is **GRANTED in part** to the extent indicated above. The application will be forwarded back to the examiner for action consistent with this decision.

Any questions or comments with respect to this decision should be forwarded to Quality Assurance Specialist Steven N. Meyers at (571) 272-6611.



Dave Talbott, Director
Patent Technology Center 3600
(571) 272-5150

snm/snm: 8/31/10

SM



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/635,235	12/07/2006	Frank Lco	GP-306729-FCAR-CHE	6039
65798 7590 12/17/2010 MILLER IP GROUP, PLC GENERAL MOTORS CORPORATION 42690 WOODWARD AVENUE SUITE 200 BLOOMFIELD HILLS, MI 48304			EXAMINER ARCIERO, ADAM A	
			ART UNIT 1727	PAPER NUMBER
			MAIL DATE 12/17/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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wk

Mailed :

In re Application of

Leo

Serial No. 11/635,235

Filed: December 07, 2006

For: SYSTEM AND METHOD FOR

REDISTRIBUTION OF THE FLOW OF FUEL

UNDER FAULTED CONDITIONS IN A FUEL

CELL SYSTEM

DEC 17 2010

: DECISION ON

: PETITION

:

:

This is a decision on the PETITION FILED UNDER 37 CFR 1.144 filed on November 19, 2010.

The Examiner initially required a restriction on between Group I, claims 1- 9, drawn to a fuel cell system, classified in class 429, subclass 545 and Group II, claims 10-18 drawn to a method of controlling a fuel cell under faulted conditions, classified in class 429, subclass 443.

The Examiner determined that inventions I and II were related as process and apparatus for its practice. The inventions can be distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP 806.05(e)). In the instant case, the Examiner determined that the process as claimed can be practiced by another and materially different apparatus such as a fuel cell system comprising a reformer for reforming a hydrocarbon fuel to produce hydrogen fuel wherein said reformed hydrogen fuel is sent to a fuel tank for storage.

The burden is on the Examiner to provide reasonable examples that recite material differences. If Applicant proves or provides convincing argument that there is no material difference, the burden is on the Examiner to document another materially different process or apparatus or withdraw the requirement.

Applicant submits that the inclusion of a reformer has no bearing on the claimed invention. Applicant asserts the neither claims 1 or 10 positively recite a "reformer" and that the Examiner's example that the process can be practiced by a fuel cell system that includes a reformer is not reasonable as the apparatus of Claim 1 of Group 1 would not be precluded from also including a reformer that provides hydrogen fuel and therefore the apparatus and process as claimed are completely complimentary.

11/635,235

Applicant has established that there is no material difference and the Examiner has not documented another materially different process or apparatus in response to Applicant's arguments.

DECISION

The petition is **Granted**.

The Restriction between claims 1-9 and 10-18 is withdrawn.

W. GARY JONES/
Director, Technology Center 1700
Chemical and Materials Engineering

MILLER IP GROUP, PLC
GENERAL MOTORS CORPORATION
42690 WOODWARD AVENUE
SUITE 200
BLOOMFIELD HILLS MI 48304



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Alexandria, VA 22313-1450
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**KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834**

MAILED

JUN 24 2011

OFFICE OF PETITIONS

In re Application of	:	
Mikhail Godkin	:	
Application No. 11/635,323	:	DECISION ON PETITION
Filed: December 7, 2006	:	TO WITHDRAW
Attorney Docket No. 351999-991710	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 7, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by David A. Hall on behalf of all the practitioners of record associated with Customer Number 20350.

Customer Number 20350 has been withdrawn as attorney from record. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed April 28, 2011, that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

cc: BEI SENSORS AND SYSTEMS COMPANY, INC.
13100 TELFAIR AVENUE
SYLMAR, CA 91342-3573



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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/635,323	12/07/2006	Mikhail Godkin	351999-991710

20350
KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

CONFIRMATION NO. 6328
POWER OF ATTORNEY NOTICE



Date Mailed: 06/23/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/07/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/akelley-collier/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**SYNTHETIC GENOMICS C/O MOFO
12531 HIGH BLUFF DRIVE, SUITE 100
SAN DIEGO CA 92130**

MAILED

OCT 01 2010

In re Application of
VENTER, J. Craig et al.
Application No. 11/635,355
Filed: December 06, 2006
Attorney Docket No. **616872001300**

OFFICE OF PETITIONS

**DECISION ON PETITION
TO WITHDRAW
FROM RECORD**

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 03, 2010.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71 who has properly intervened.

If an assignee has intervened in this application, then a Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be submitted with a renewed request.

It is not clear if the customer wants to update the customer number and withdraw all attorneys associated. As of August 11, 2010 our records have been updated. Customer must submit an updated 3.73(b) to reflect our records.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **SYNTHETIC GENOMICS, INC.**
11149 NORTH TORREY PINES ROAD
SUITE 100
LA JOLLA, CALIFORNIA 92037



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CINDY X. QIU
6215 BIENVILLE ST.
BROSSARD QC J4Z 1W6 CA CANADA

MAILED
NOV 30 2011
OFFICE OF PETITIONS

In re Application of	:	
Qui et al.	:	
Application No. 11/635,445	:	ON PETITION
Filed: December 8, 2006	:	
Title: ALL-IN-ONE ORGANIC	:	
ELECTROLUMINESCENT INKS WITH	:	
BALANCED CHARGE TRANSPORT	:	
PROPERTIES	:	

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed October 3, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unavoidable delay or to accept an unavoidably delayed payment of a fee for issuing a patent. In this instance, the fee required by law is \$620.00. If applicant can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one half of the amount indicated. See 37 CFR 1.27.

The petition in the above identified application was not accompanied by full payment of the required fee. Petitioner submitted \$270.00 towards payment of the \$310.00 fee. No consideration on the merits can be given to the petition until the required fee is received in full.

Further, the petition must be signed by:

- (1) An attorney or agent of record appointed in compliance with § 1.34(b);
- (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
- (3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;
- (4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undividing part interest; or

(5) All of the applicants (§§ 1.42, 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.

It is also noted that the petition is not signed on Page 2 of 3.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By facsimile: (571) 273-8300
 Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Walsh at (571) 272-3206.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

cc: STEVEN SHUYONG XIAO
 2555 NANTEL
 ST-LAURENT, QUEBEC H4M 1K6
 CANADA



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/635,487	12/08/2006	Reiko Kawachi	04329.4055-00000	6303
7590 09/13/2010 FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			EXAMINER HASAN, SYED Y	
			ART UNIT	PAPER NUMBER
			2621	
			MAIL DATE	DELIVERY MODE
			09/13/2010	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d) *The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Rejection date: 09/13/2010
10/13/2010 10:00:00 AM
09/13/2010 10:00:00 AM
-553.00 CF

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web		PTO/SB/140 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)	
Application Number	11635607	
Filing Date	08-Dec-2006	
First Named Inventor	Hideaki Hara	
Art Unit	2882	
Examiner Name	EDWARD GLICK	
Attorney Docket Number	129429.01	
Title	EXPOSURE APPARATUS AND DEVICE FABRICATION METHOD	
<p>An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.</p> <p>APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).</p> <p>A grantable petition requires the following items:</p> <p>(1) Petition fee; and</p> <p>(2) One of the following reasons:</p> <p>(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;</p> <p>(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or</p> <p>(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).</p>		
<p>Petition Fee</p> <p><input type="checkbox"/> Applicant claims SMALL ENTITY status. See 37 CFR 1.27.</p> <p><input type="checkbox"/> Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).</p> <p><input type="checkbox"/> Applicant(s) status remains as SMALL ENTITY.</p> <p><input checked="" type="checkbox"/> Applicant(s) status remains as other than SMALL ENTITY</p>		
Reason for withdrawal from issue		

- ☐ One or more claims are unpatentable
- ☒ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees)
- ☐ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).

RCE request, submission, and fee.

- ☐ I certify, in accordance with 37 CFR 1.4(d)(4) that:
- ☐ The RCE request, submission, and fee have already been filed in the above-identified application on
- ☒ Are attached.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- ☐ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ☐ A sole inventor
- ☐ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors
- ☐ A joint inventor; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Mario A. Costantino/
Name	Mario A. Costantino
Registration Number	33565



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Decision Date : May 2, 2011

In re Application of :

Hideaki Hara

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11635607

Filed : 08-Dec-2006

Attorney Docket No : 129429.01

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed May 2, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 2882 for processing of the request for continuing examination under 37 CFR 1.114.

Office of Petitions



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date: 11/18/11

Patent No. : 8021014 B2
Ser. No. : 11/635,631
Inventor(s) : **Jacobsson**
Issued : **September 20, 2011**
Title : **FLOOR LIGHT**
Docket No. : **1033462-000121**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Respecting the alleged error(s) in Title page: Add to section (56) References Cited, under Foreign Patent Documents, GB 2 376 287 A 12-11-2002, GB 2 380 539 A 04-09-2003, WO 94/26999 A1 11-24-1994, and WO 00/20705 A1 04-13-2000, comparison of the printed patent with the corresponding location in the application file reveals that there is no discrepancy.

"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."

In view of the foregoing, your request in this matter is hereby denied.

A handwritten signature in cursive script, appearing to read "Lamonte M. Newsome".

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

LMN



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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

MAILED
FEB 13 2012
OFFICE OF PETITIONS

In re Patent No. 7,649,342 :
Issue Date: January 19, 2010 :
Application No. 11/635,644 : DECISION ON REQUEST FOR REFUND
Filed: December 8, 2006 :
Attorney Docket No. 1005950-000898 :

This is a decision on the Request For Refund filed, January 25, 2012.

The request is **GRANTED**.

Applicant files the above request for refund and states "On 18 January 2012 a Petition Under 37 CFR § 1.183 for U.S. Application No. 10/448,812, now Patent No. 7,537,416 was inadvertently submitted electronically into U.S. Application No. 11/635,644. The Petition Fee of \$130.00 was also submitted into Application No. 11/635,644."

Applicant further states that "The Petition Under 37 CFR § 1.183 and fee of \$130 are being resubmitted into the correct application, U.S. Application No. 10/448,812, now Patent No. 7,649,342 (**the correct patent number for 10/448,812 is 7,537,416**). We therefore request a refund of \$130.00 in Application Serial No. 11/635,644."

In view of the above, the \$130.00 petition fee of \$130.00 is being credited to petitioner's credit card account as it is the method in which the fee was paid on January 18, 2012.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions



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Alexandria, VA 22313-1450
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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

MAILED

JAN 19 2011

In re Application of
Tae Joon Song
Application No. 11/635,675
Filed: December 8, 2006
Attorney Docket No. 0465-1700PUS1

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition, filed January 14, 2011 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 28, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3751 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110815

DATE : August 15, 2011

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 728130

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Certificates of Correction Branch - ST (South Tower) 9A22

Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments:

In view of the petition under 37 CFR 1.48(b) filed 25 November 2008, the inventorship of this US Patent has been amended to read as follows:

Jennifer R. Allen, Newbury Park, CA;
Kaustav Biswas, Calabasas, CA;
Roland Burli, Pasadena, CA;
Michael J. Frohn, Thousand Oaks, CA;
Jennifer E. Golden, Simi Valley, CA;
Randall W. Hungate, Camarillo, CA;
Stephanie J. Mercede, Woodland Hills, CA;
Kristine M. Muller, Thousand Oaks, CA;
Susana C. Neira, Thousand Oaks, CA;
Tanya A. N. Peterkin, Woodland Hills, CA;
Christopher M. Tegley, Thousand Oaks, CA;

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Comments:

/DANIEL SULLIVAN/
Supervisory Patent Examiner.Art Unit 1621



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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

MAILED

SEP 30 2010

In re Application of
Eun-Seok Jin, et al.
Application No. 11/635,721
Filed: December 7, 2006
Attorney Docket No. 51876P1177

: **OFFICE OF PETITIONS**
:
: **DECISION ON PETITION**
:
:

This is a decision on the petition, filed July 21, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before June 9, 2010, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed March 9, 2010. A Notice of Abandonment was mailed on June 25, 2010.

Petitioner asserts that the Notice of Allowance dated March 9, 2010 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received.

The showing required to establish nonreceipt of an Office communication must include:

(1) a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

(2) Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received.

(3) A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question. See MPEP §711.03(c)(I)(A).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center AU 2611 technical support staff for re-mailing the Notice of Allowability and the Notice of Allowance and Fee(s) Due of March 9, 2010. The period for paying the issue and publication fees and submitting corrected drawings will be reset to expire three (3) months from the date the Notices are re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

/ Ramesh Krishnamurthy/

Ramesh Krishnamurthy

Petitions Examiner

Office of Petitions



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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

MAILED

SEP 07 2011

OFFICE OF PETITIONS

In re Application of :
JIN et al :
Application No. 11/635,721 : **DECISION ON REQUEST FOR REFUND**
Filed: December 7, 2006 :
Attorney Docket No. 51876P1177 :

This is a decision on the Request For Refund filed August 29, 2011.

The request is **GRANTED**.

Applicant files the above request for refund and states that, "A Petition Under 37 CFR 1.181 to Withdraw Holding of Abandonment and Reinstate Application was filed on July 21, 2010. Along with the Petition, payment in the amount of \$400.00 was submitted concurrently with a request for refund, as the need to file the Petition was not due to any fault of the applicant. The Petition to Withdraw Holding of Abandonment and Reinstate Application was granted in a Decision on Petition mailed September 30, 2010 [sic], but the refund was never credited to our Deposit Account. Accordingly, a refund in the amount of \$400.00 is hereby requested.

In view of the above, the request for refund is granted.

As authorized, the \$400.00 fee for the petition filed July 21, 2010, has been credited to petitioner's deposit account.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions



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Alexandria, VA 22313-1450
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MAILED

MAR 04 2011

OFFICE OF PETITIONS

**SIMPSON & SIMPSON, PLLC
5555 MAIN STREET
WILLIAMSVILLE NY 14221-5406**

In re Application of :
Samuel A. Incorvia et al :
Application No. 11/635,750 : **DECISION GRANTING PETITION**
Filed: December 7, 2006 : **UNDER 37 CFR 1.313(c)(2)**
Attorney Docket No. MUSP:104US :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 3, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 1, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1793 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.



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MAILED

DEC 19 2011

OFFICE OF PETITIONS

MORGAN LEWIS & BOCKIUS LLP (WA)
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

In re Application of :
Yoshikazu Yasukawa et al :
Application No. 11/635,792 : DECISION GRANTING PETITION
Filed: December 8, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 040894-7538 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, December 16, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 28, 2011 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1788 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

Doc Code: PET.PTA.RCAL

Document Description: Request for Recalculation in view of Wyeth

PTO/GB/191 (01-10)

Approved for use through 02/28/2011. OMB 0581-0020

U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

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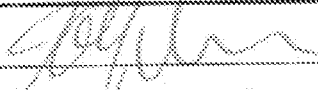
**REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT
IN VIEW OF WYETH***Attorney Docket
Number: **A-1042-US-NP**Patent Number: **7,662,930**Filing Date
(or 371(b) or (f) Date): **December 6, 2006**Issue Date: **February 16, 2010**First Named
Inventor: **Joe Xin Hua Zhou**Title: **Polishing Steps Used in Multi-Step Protein Purification Processes**

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-WYETH INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

*Wyeth v. Kappos, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature 	Date 8/4/10
Name (Print/Typed) John A. Lamerdin	Registration Number 44,858
Note: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.32 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below.	
<input checked="checked" type="checkbox"/> *Total of <u>1</u> forms are submitted.	

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

AMGEN INC.
MAIL STOP 28-2-C
ONE AMGEN CENTER DRIVE
THOUSAND OAKS, CA 91320-1799

Mail Date: 08/17/2010

Applicant	: Joe Xin Hua Zhou	: DECISION ON REQUEST FOR
Patent Number	: 7662930	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/635,800	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/06/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **139** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **3-24-11**

TO SPE OF : ART UNIT **2822**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11635827** Patent No.: **7838989**

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square – 9D10-E
Palm Location 7580

Omega Lewis
Certificates of Correction Branch
703-756-1575

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

/Zandra Smith/
SPE Art Unit 2822
SPE

Art Unit



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

January 24, 2011

Brian L. Buckwalter
Genentech, Inc.
1 DNA Way
San Francisco, CA 94080-4990

Patent No. : 7,754,699 B2
Ser. No. : 11/635,898
Inventor(s) : Byoung-Kwon Chun, et al.
Issued : July 13, 2010
Docket No. : R00263B-REG
Title : ANTIVIRAL NUCLEOSIDES

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing incorrect or erroneous assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 (see *Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481*). This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

- A. the processing fee set forth in 37 CFR 1.17(i) (currently \$130);
- B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
- C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently \$100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) 272-0460 or (703) 756-1814

vt



UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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HOFFMANN-LA ROCHE INC.
PATENT LAW DEPARTMENT
340 KINGSLAND STREET
NUTLEY NJ 07110

MAILED

MAR 15 2011

OFFICE OF PETITIONS

In re Patent No. 7,754,699	:	
Issue Date: July 13, 2010	:	
Application No. 11/635,898	:	ON PETITION
Filed: December 8, 2006	:	
Attorney Docket No. R00263B-REG	:	

This is a decision on the petition filed February 8, 2011, which is being treated as a petition under 37 CFR 3.81(b) to add assignee Pharamasset, inc on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

37 CFR 3.81(b), effective June 25, 2004, reads:

After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 **before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that an assignment reflecting the addition of Pharamasset, inc as a joint assignee was recorded on January 5, 2011, **after the date of issuance of this patent**. Accordingly, since the assignment reflecting the additional assignee name was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.

Charlema Grant
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : November 11, 2011

In re Application of :

DECISION ON REQUEST TO WITHDRAW AS
ATTORNEY/AGENT OF RECORD

Dale Tommer

Application No : 11635900

Filed : 08-Dec-2006

Attorney Docket No : 56487-2

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed November 11, 2011

The request is **APPROVED**.

The request was signed by Brian Michaelis (registration no. 34221) on behalf of all attorneys/agents associated with Customer Number 71130 . All attorneys/agents associated with Customer Number 71130 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with correspondence address:

Name Dale F. Tommer, Jr.

Name2

Address 1 227 Brightman Street

Address 2

City Fall River

State MA

Postal Code 02720

Country US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web		PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS	
Application Number	11635900	
Filing Date	08-Dec-2006	
First Named Inventor	Dale Tommer	
Art Unit	1653	
Examiner Name	VERA AFREMOVA	
Attorney Docket Number	56487-2	
Title	System and method for detection of substances	
<input checked="" type="radio"/> Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number:		71130 <hr/>
The reason(s) for this request are those described in 37 CFR: 10.40(c)(1)(iv) 10.40(c)(1)(vi)		
Certifications		
<input checked="" type="checkbox"/> I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment		
<input checked="" type="checkbox"/> I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled		
<input checked="" type="checkbox"/> I/We have notified the client of any responses that may be due and the time frame within which the client must respond		
Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:		
Name	Dale F. Tommer, Jr.	
Address	227 Brightman Street	
City	Fall River	
State	MA	
Postal Code	02720	

Country	US
I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Brian Michaelis/
Name	Brian Michaelis
Registration Number	34221



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
3404 E. HARMONY ROAD
MAIL STOP 35
FORT COLLINS CO 80528**

**MAILED
JUL 15 2011
OFFICE OF PETITIONS**

In re Application of :
Sheppard et al. :
Application No. 11/635,906 : **DECISION ON PETITION**
Filed: December 8, 2006 :
Attorney Docket No. 200901883-1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 30, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, October 26, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 27, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and fee of \$540.00; (2) the petition fee of \$1,620.00; and (3) a proper statement of unintentional delay.

Further, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Additionally, it is noted that petitioner has filed an Appeal Brief and \$540.00 fee on June 30, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This matter is being referred to Technology Center AU 2191 for appropriate action by the Examiner in the normal course of business on the reply received.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/636,001	12/08/2006	Ben A. Barros	STAN-457	7237
77974 7590 09/15/2011 Stanford University Office of Technology Licensing Bozicevic, Field & Francis LLP 1900 University Avenue Suite 200 East Palo Alto, CA 94303			EXAMINER GUDIBANDE, SATYANARAYAN R	
			ART UNIT 1654	PAPER NUMBER
			MAIL DATE 09/15/2011	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



UNITED STATES PATENT AND TRADEMARK OFFICE

SEP 15 2011

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BOZICEVIC, FIELD & FRANCIS LLP
1900 University Avenue, Suite 200
East Palo Alto, CA 94303

In re Application of: BARRES et al	:	
Serial No: 11/636001	:	DECISION
Filed: December 8, 2006	:	ON
Attorney Docket No: STAN-457	:	PETITION
Title: Modulation of Synaptic Maintenance	:	

This letter is in response to the Request to review the restriction requirement filed January 20, 2011. The Request is being treated as petition filed under 37 C.F.R. 1.181.

Petition and prosecution history has been carefully reviewed. Claim 5 has been rejoined and the application is considered in condition for allowance.

Accordingly, petition is moot and Dismissed.

Should there be any questions about this decision, please contact Supervisory Patent examiner Cecilia Tsang, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0562 or by facsimile sent to the general Office facsimile number, 571-273-8300.

George Elliott
Director, Technology Center 1600



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

December 17, 2011

Stanford University Office of Technology Licensing
Bozicevic, Field & Francis LLP
1900 University Avenue
Suite 200
East Palo Alto CA 94303

In re Application of	:	
Ben A. Barres et al.	:	DECISION ON PETITION
Application No. 11636001	:	
Filed: 12/08/2006	:	ACCEPTANCE OF COLOR
Attorney Docket No. STAN-457	:	DRAWINGS

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R. 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) December 8, 2006.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquiries relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Laura Feldman/
Quality Control Specialist
Office of Data Management
Publications Branch

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web		PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS	
Application Number	11636003	
Filing Date	08-Dec-2006	
First Named Inventor	Charles Taylor	
Art Unit	3623	
Examiner Name	STEPHEN SWARTZ	
Attorney Docket Number	RISK-100US	
Title	System and method for determining composite indicators	
<input checked="" type="radio"/> Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 23122		
The reason(s) for this request are those described in 37 CFR: 10.40(c)(5)		
Certifications		
<input checked="" type="checkbox"/> I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment		
<input checked="" type="checkbox"/> I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled		
<input checked="" type="checkbox"/> I/We have notified the client of any responses that may be due and the time frame within which the client must respond		
Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:		
Name	Risk Management Association ATTN: Ed DeMarco	
Address	1801 Market Street Suite 300	
City	Philadelphia	
State	PA	
Postal Code	19103	
Country	US	

I am authorized to sign on behalf of myself and all withdrawing practitioners.

Signature	/Lawrence E. Ashery/
Name	Lawrence E. Ashery
Registration Number	34515



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : May 9,2011

In re Application of :

Charles Taylor

Application No : 11636003

Filed : 08-Dec-2006

Attorney Docket No : RISK-100US

DECISION ON REQUEST TO WITHDRAW AS
ATTORNEY/AGENT OF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed May 9,2011

The request is **APPROVED**.

The request was signed by Lawrence E. Ashery (registration no. 34515) on behalf of all attorneys/agents associated with Customer Number 23122 . All attorneys/agents associated with Customer Number 23122 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with correspondence address:

Name Risk Management Association
Name2 ATTN: Ed DeMarco
Address 1 1801 Market Street
Address 2 Suite 300
City Philadelphia
State PA
Postal Code 19103
Country US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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William S. Frommer, Esq.
FROMMER LAWRENCE & HAUG LLP
745 Fifth Avenue
New York NY 10151

MAILED
SEP 26 2011
OFFICE OF PETITIONS

In re Application of :
Takayuki Ishida et al. :
Application No. 11/636,079 : DECISION ON PETITION
Filed: December 8, 2006 :
Attorney Docket No. PP0088USNA :

This is a decision on the Petition to Expunge Information in a Patent Application Under 37 CFR 1.59(b), filed September 14, 2011.

The petition is **dismissed**.

Petitioner requests that the Request for Continued Application, filed August 30, 2011, be expunged from the record because it is a duplicate of a previously filed Request for Continued Application and was an unintentional filing.

The petition is deficient because there is no statement that:

- (B) the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;
- (C) the information has not otherwise been made public;
- (D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted.

Petitioner is directed to MPEP 724.05(II).

Telephone inquiries concerning this communication should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Lauson & Tarver LLP
880 Apollo Street
SUITE 301
El Segundo CA 90245

MAILED

JUN 14 2011

OFFICE OF PETITIONS

In re Application of :
Findlay et al. :
Application No. 11/636,148 :
Filed: December 7, 2006 :
Attorney Docket No. 22616-001 :
For: TELEVISION VIEWERS INTERATION
AND VOTING METHOD

ON PETITION

This is a decision on the petition, filed May 25, 2011, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioners are advised that this is not a final agency decision.

The above-identified application became abandoned for failure to timely submit a reply within one month of the mailing of the September 9, 2010 Notice of Non-Compliant Amendment (Notice). No response being received, this application became abandoned on October 10, 2010. A Notice of Abandonment was mailed on March 29, 2011.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) the required reply, unless previously filed.;
- (2) the petition fee as set forth in 37 CFR 1.17(m);
- (3) a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

- (4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition does not satisfy requirement (1) above. The amendment, filed May 25, 2011, is not signed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, practitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, practitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebs/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

A handwritten signature in black ink, reading "Shirene Willis Brantley". The signature is written in a cursive, flowing style.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: JOHN ALUMIT
16830 VENTURA BLVD.
SUITE 360
ENCINO CA 91436



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Lauson & Tarver LLP
880 Apollo Street
SUITE 301
El Segundo CA 90245

MAILED

JUL 15 2011

OFFICE OF PETITIONS

In re Application of :
Findlay et al. :
Application No. 11/636,148 : **ON PETITION**
Filed: December 7, 2006 :
Attorney Docket No. 22616-001 :
For: TELEVISION VIEWERS INTERATION :
AND VOTING METHOD :

This is a decision on the renewed petition, filed June 21, 2011, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioners are advised that this is not a final agency decision.


The above-identified application became abandoned for failure to timely submit a reply within one month of the mailing of the September 9, 2010 Notice of Non-Compliant Amendment (Notice). No response being received, this application became abandoned on October 10, 2010. A Notice of Abandonment was mailed on March 29, 2011.

Applicants have submitted an amendment in reply to the September 9, 2010 Notice, an acceptable statement of the unintentional nature of the delay in responding to the September 9, 2010 Notice, and the \$810.00 petition fee. All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

The June 21, 2011 power of attorney and change of correspondence address was not entered. See Denial of Request for Power of Attorney, mailed June 29, 2011. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

After the mailing of this decision, the application will be returned to Technology Center AU 2424 for consideration of the amendment filed on June 21, 2011.


Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: JOHN ALUMIT
16830 VENTURA BLVD.
SUITE 360
ENCINO CA 91436



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**DLA PIPER LLP (US)
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO CA 92121-2133**

**MAILED
MAR 09 2012
OFFICE OF PETITIONS**

In re Application of	:	
TURNELL, et al	:	
Application No. 11/636,230	:	DECISION ON PETITION
Filed: December 7, 2006	:	TO WITHDRAW
Attorney Docket No. MEDIV2050-7	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 14, 2012.

The request is **NOT APPROVED**.

The Office will either change the correspondence address of record to the most current address information provided for a new practitioner or law firm who has filed a proper power of attorney, the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, since the change of correspondence address appears to be that of a new practitioner or law firm who has not filed a proper power of attorney in the Office, the Request to Withdraw filed February 14, 2012, cannot be approved.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272- 6735.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: WILLIAM G. TURNELL ET AL.
C/O MARK EKSE, HAGEN WILKA
& ARCHER LLP
600 S MAIN AVENUE, SUITE 102
SIOUX FALLS SD 57104



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4365 EXECUTIVE DRIVE
SUITE 1100
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MAILED

APR 16 2012

OFFICE OF PETITIONS

In re Application of

TURNELL, et al

Application No. 11/636,230

Filed: December 7, 2006

Attorney Docket No. MEDIV2050-7

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 29, 2012.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Lisa Haile on behalf of the attorneys of record associated with Customer No. 28213.

The attorneys of record associated with Customer No. 28213 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified by the applicant.

Inquiries concerning this decision should be directed to the undersigned at (571) 272- 6735.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MEDIVAS, LLC
P.O. BOX 33419
SAN DIEGO CA 92163



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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/636,230	12/07/2006	William G. Turnell	MEDIV2050-7

CONFIRMATION NO. 8284

POWER OF ATTORNEY NOTICE



OC000000053728489

Date Mailed: 04/16/2012

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/29/2012.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101



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**MICHAEL K. CARRIER
EASTMAN CHEMICAL COMPANY
100 NORTH EASTMAN ROAD
KINGSPORT TN 37660-5075**

MAILED
NOV 10 2010
OFFICE OF PETITIONS

In re Application of
Kuo et al.
Application No. 11/636,254
Filed: December 8, 2006
Attorney Docket No. 80306 US01

:
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:

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 14, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees, (2) the petition fee of \$1620.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions



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JUL 05 2011

OFFICE OF PETITIONS

In re Application of
Henry H. Flanner, et al.
Application No. 11/636,291
Filed: December 8, 2006
Attorney Docket No. 35117-715.201

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 14, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed September 10, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 11, 2009. The Notice of Abandonment was mailed October 30, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). The amendment filed herewith petition *does not* prima facie place the application in condition for allowance.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

Enclosed: Examiner's Advisory Action PTOL-303

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/636,291	Applicant(s) FLANNER ET AL.
	Examiner PAUL DICKINSON	Art Unit 1618

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 April 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because

(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);

(b) ☐ They raise the issue of new matter (see NOTE below);

(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s): _____.

13. ☐ Other: _____.

/Michael G. Hartley/ SPE 1618	/PAUL DICKINSON/ Examiner, Art Unit 1618
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Continuation of 3. NOTE: Claim 1 recites "a once-a-day amoxicillin antibiotic product consisting of one or more tablets" and further recites at least one delayed release dosage form and an immediate release dosage form" and further recites "775 to 1550 mg". These limitations, and the combination of these limitations with the dependent claims, were not previously considered. Further claim 46 recites "775 mg". This limitation was not previously considered. Further claim 47 recites "775 mg to 1550 mg". This limitation, and the combination of this limitation with the dependent claims, was not previously considered.



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JUL 28 2011

OFFICE OF PETITIONS

In re Application of	:	
Henry H. Flanner, et al.	:	
Application No. 11/636,291	:	ON PETITION
Filed: December 8, 2006	:	
Attorney Docket No. 35117-715.201	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 15, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 9, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is December 10, 2010. The Notice of Abandonment was mailed March 29, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$405, and the submission required by 37 CFR 1.114; (2) the petition fee of \$810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

This application is being referred to Technology Center AU 1618 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/636,316	12/08/2006	Georgios Ginis	STFD.059C1	8254

40581 7590 08/13/2010
CRAWFORD MAUNU PLLC
1150 NORTHLAND DRIVE, SUITE 100
ST. PAUL, MN 55120

EXAMINER

CORRIELUS, JEAN B

ART UNIT	PAPER NUMBER
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2611

MAIL DATE	DELIVERY MODE
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08/13/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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AUG 13 2010

**DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600**

CRAWFORD MAUNU PLLC
1150 NORTHLAND DRIVE, SUITE 100
ST. PAUL MN 55120

In re Application of:
GINIS, GEORGIOS, et al.
Application Serial No.: 11/636,316
Filed: December 8, 2006
For: **DYNAMIC DIGITAL COMMUNICATION
SYSTEM CONTROL**

**DECISION
ON PETITION**

This is a decision on the petition to withdraw finality of office action filed June 15, 2010, pursuant to 37 CFR § 1.181.

The petition is **GRANTED**.

Petitioner contends that the finality of the April 15, 2010 Office Action is improper because the examiner failed to treat claim 46 and because the examiner made a new ground of rejection not necessitated by amendment.

A review of the record indicates that petitioner is correct in his assertion that claim 46 was not treated in the Office action of June 15, 2010. Treating this claim in the Advisory action of July 16, 2010 does not afford the applicant with a fair and reasonably opportunity to respond to a "rejection" of such claim. This constitutes a more substantial defect than contemplated by MPEP § 710.06 for which period would be re-started. However, the effective result is commensurate with the section, in that the final Office of April 15, 2010 action is vacated.

Notwithstanding the above comment, the grounds of rejection has not changed as contended by petitioner. The rejection is virtually identical (with the exception of the non-treatment of claim 46) to the previous rejection. The difference being the nature of answering Applicant's arguments. The only new grounds of rejection was that of the newly added claims.

REGULATIONS AND PRACTICE

MPEP 706.07(a) [R-6] Final Rejection, When Proper on Second Action states:

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims, nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

~~Decision~~ Decision on Petition

The examiner has introduced a new grounds of rejection only for the amendment adding new claims 43-46. Appropriately, though, the application file is being returned to the examiner for treatment of all claims including claim 46 as well as newly added claims 47 and 48 commensurate with this decision.

The amendment filed June 15, 2010 will be entered prior to the next Office action.

SUMMARY: Petition **GRANTED**. Final Office action of April 15, 2010 is **VACATED**.

Mark Powell, Director
Technology Center 2600
Communications



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/636,316	12/08/2006	Georgios Ginis	STFD.059C1	8254
40581	7590	07/29/2011		
CRAWFORD MAUNU PLLC 1150 NORTHLAND DRIVE, SUITE 100 ST. PAUL, MN 55120			EXAMINER CORRIELUS, JEAN B	
			ART UNIT 2611	PAPER NUMBER
			MAIL DATE 07/29/2011	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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CRAWFORD MAUNU PLLC
1150 NORTHLAND DRIVE, SUITE 100
ST. PAUL MN 55120

In re Application of:
GINIS et al
Application Serial No.: 11/636,316
Filed: December 8, 2006
For: **DYNAMIC DIGITAL COMMUNICATION
SYSTEM CONTROL**

DECISION
ON PETITION

This is a decision on the petition under 37 CFR § 1.181(a) to supervising examiner to withdraw finality of office action, filed May 9, 2011. This petition is properly decided by the Technology Center Director, see MPEP § 1002.02(c)(3)(a).

Petitioner requests that supervisory review of the final Office action of March 3, 2011 be made in view of the presentation of alleged improper rejections in the prior (non-final) Office Action and presenting entirely new grounds of rejection in the instant Office Action.

The request is **DENIED**.

The petitioner argues:

1. the non-final rejection rejects claims 47 and 48 under 35 USC 112(1) "for being dependent on a rejected claim" (Office Action dated September 15, 2010, p. 6)

2. the claims depend from a claim not rejected under 35 USC 112(1), therefore, the rejection was erroneous

3. the examiner closed prosecution on the merits while presenting two entirely new assertions for why claims 47 and 48 were being rejected under 35 USC 112(1) (Final Office Action dated March 7, 2011, p. 5)

The petitioner is correct as to the improper rejection under 35 USC 112(1) for being dependent on a rejected claim.

However, in the Office Action dated September 15, 2010, p.7, claims 47 and 48 were individually rejected under 35 USC 112(1) for their specific lack of support in the specification.

In the Final Office Action dated March 7, 2011, p.5, the examiner again individually rejected claims 47 and 48 under 35 USC 112(1) for their lack of support in the specification. The examiner did not repeat the erroneous rejection under 35 USC 112(1) for being dependent on a rejected claim.

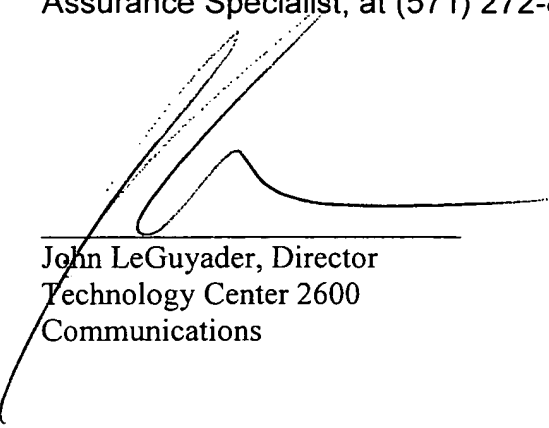
Therefore, since the examiner withdrew the erroneous rejection and again rejected the claims for lack of support in the specification, the finality of the Office Action dated March 7, 2011 is deemed proper.

Summary: The petition is **denied**.

The period for response to the Final Office Action dated March 7, 2011 continues to run from the date of the final Office Action.

Any request for reconsideration must be filed within two months from the mailing date of this decision. Extension of time under 37 CFR 1.136(a) is not permitted.

Any inquiry regarding this decision should be directed to Reinhard Eisenzopf, Quality Assurance Specialist, at (571) 272-8485.



John LeGuyader, Director
Technology Center 2600
Communications



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**KRISTOFER E. ELBING
187 PELHAM ISLAND ROAD
WAYLAND MA 01778**

MAILED

AUG 03 2010

OFFICE OF PETITIONS

In re Application of	:	
Christy et al.	:	
Application No. 11/636,354	:	DECISION ON PETITION
Filed: December 8, 2006	:	
Attorney Docket No. P0004-002001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 24, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). No extensions of time were obtained. As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed November 12, 2009, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on January 13, 2010. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of \$810.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

The file is now being forwarded to Technology Center AU 3695 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Joan Olszewski
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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KRISTOFER E. ELBING
187 PELHAM ISLAND ROAD
WAYLAND MA 01778

MAILED

DEC 28 2010

OFFICE OF PETITIONS

In re Application of
Todd Christy, et al.
Application No. 11/636,420
Filed: December 8, 2006
Attorney Docket No. P0004-003001

:
:
: DECISION ON PETITION
:
:

This is a decision on the petition, filed October 8, 2010, which is being treated as a petition under 37 CFR 1.8(a), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Final Office action of September 2, 2009 which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before December 2, 2009, or, on or before March 2, 2010, with a three (3)-month extension of time. A Notice of Abandonment was mailed March 17, 2010.

Petitioner states that a timely reply was mailed via certificate of mailing dated March 2, 2010, which included the following papers: a Notice of Appeal and a request for a three (3) month extension of time, with a check for \$825. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated March 2, 2010, which would have rendered the reply timely if received.

The file record includes the originally submitted papers. However, the papers were received at the Office on March 8, 2010. Failure to timely receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(a), reproduced below:

Except in the situations enumerated in paragraph (a)(2) of this section or as otherwise expressly excluded in this chapter, correspondence required to be filed in the U.S. Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

(1) Correspondence will be considered as being timely filed if:

(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:

(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail;

(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6 (d); or

(C) Transmitted via the Office electronic filing system in accordance with § 1.6(a)(4); and

(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The petition satisfies the above requirements of 37 CFR 1.8(a). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of September 2, 2009, is hereby withdrawn and the application restored to pending status.

Telephone inquiries regarding this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3693 for appropriate action in the normal course of business on the RCE and amendment filed concurrently with the instant petition.

/ Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 05 2011

OFFICE OF PETITIONS

**Robinson Intellectual Property Law Office, P.C.
3975 Fair Ridge Drive
Suite 20 North
Fairfax VA 22033**

In Re application of :
Koichiro Tanaka et al. :
Application No. 11/636,596 :
Filed: December 11, 2006 :
Attorney Docket No. 0756-7902 :

ON PETITION

This is a decision on the petition under 37 CFR 1.59(b), filed December 29, 2010 to expunge information from the above identified application.

The petition is **granted**.

Petitioner requests that the Information Disclosure Document filed July 25, 2007 be expunged from the record. Petitioner states that the information submitted was erroneously filed in the instant application and was clearly identified as belonging in another application.

A review of the file shows the information was clearly intended to be filed in an unrelated application.

The expunged material has been removed from the official file.

In accordance with MPEP 724.05(III), no petition is needed since the papers in question were clearly identified for a different application. Therefore, the petition fee is refunded to petitioner.

Telephone inquiries relative to this decision should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville NY 11747

MAILED

NOV 12 2010

OFFICE OF PETITIONS

In re Application of	:	
Jun-Woo Kim, et al.	:	
Application No. 11/636,815	:	DECISION ON PETITION
Filed: December 11, 2006	:	
Attorney Docket No. 1403-54	:	

This is a decision on the petition, filed August 16, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the Notice of Allowance and Fee(s) Due (Notice) mailed February 25, 2010, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on June 16, 2010.

Petitioner asserts that the Notice dated February 25, 2010 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received.

The showing required to establish nonreceipt of an Office communication must include:

(1) a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would

include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

(2) Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received.

(3) A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question. See MPEP §711.03(c)(I)(A).

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy item 3 of the above-stated requirements. The master docket report submitted by petitioner does not show replies docketed for a date three months from mail date of the nonreceived Notice, which is May 25, 2010.

Accordingly, absent the required evidence to establish nonreceipt of the Notice of February 25, 2010, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the \$1,620 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By facsimile: **(571) 273-8300**
 Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

/ Ramesh Krishnamurthy /

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions



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P.O. Box 1450
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www.uspto.gov

THE FARRELL LAW FIRM, P.C.
290 Broadhollow Road
Suite 210E
Melville NY 11747

MAILED

MAR 09 2011

In re Application of	:	OFFICE OF PETITIONS
Jun-Woo Kim, et al.	:	
Application No. 11/636,815	:	DECISION ON PETITION
Filed: December 11, 2006	:	
Attorney Docket No. 1403-54	:	

This is a decision on the renewed petition, filed January 12, 2011, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notice of Allowability mailed February 25, 2010, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on June 16, 2010.

Petitioner asserts that the Notice dated February 25, 2010 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received.

The showing required to establish nonreceipt of an Office communication must include:

(1) a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

(2) Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received.

(3) A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question. See MPEP §711.03(c)(I)(A).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Office of Data Management for processing of the Issue and publication fees received on August 16, 2010.

/ Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MINK, INC./TRAXSALES.COM
SUITE 302
6830 NORTH ELDRIDGE PARKWAY
HOUSTON TX 77041

MAILED

JUN 20 2011

OFFICE OF PETITIONS

In re Application of
David Paul MINK
Application No. 11/636,846
Filed: December 11, 2006
Attorney Docket No. 506.01

:
:
: DECISION ON PETITION
:
:


This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 29, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 29, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 30, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of \$810.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of May 29, 2009 is accepted as having been unintentionally delayed.

This application is being referred to Technology Center AU 2887 for appropriate action by the Examiner in the normal course of business on the reply received


Michelle R. Eason
Paralegal Specialist
Office of Petitions



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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

MAILED

DEC 13 2010

OFFICE OF PETITIONS

In re Patent No. 7,727,997	:
John et al.	:
Issue Date: June 1, 2010	: DECISION ON REQUEST FOR
Application No. 11/636,903	: RECONSIDERATION OF
Filed: December 11, 2006	: PATENT TERM ADJUSTMENT
Attorney Docket No. 01-1646-C1	: AND NOTICE OF INTENT
Title: N,N'-SUBSTITUTED-1,3-	: TO ISSUE CERTIFICATE OF
DIAMINO-2-HYDROXYPROPANE	: CORRECTION
DERIVATIVES	:
	:

This is a decision on the petition filed on July 22, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by four hundred ninety-four (494) days.

The request for review of the patent term adjustment is **GRANTED**.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by four hundred ninety-four (494) days is **GRANTED**.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 322 days.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 172 days.

Patentees contend that 115 days was incorrectly attributed to the Office delay.

A review of the record confirms that the 115 days attributed to Office delay should be removed.

As such, Office delay totals 494 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificate of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **four hundred ninety-four (494) days**.

The \$200.00 petition fee set forth in 37 CFR 1.18(e) has been received. No additional fees are required.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.



Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,727,997 B2

DATED : June 1, 2010

DRAFT

INVENTOR(S) : John et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 609 days

Delete the phrase "by 609 days" and insert – by 494 days--



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**WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891**

MAILED

NOV 12 2010

In re Application of	:	OFFICE OF PETITIONS
Rando Allikmets et al.	:	
Application No. 11/636,909	:	DECISION ON PETITION
Filed: December 11, 2006	:	TO WITHDRAW
Attorney Docket No. BYLR-0174	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 25, 2010.

The request is **NOT APPROVED**.

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R. 3.71. If an assignee has ownership in this application, then a current Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be provided with a renewed request.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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FAY SHARPE/LUCENT
1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland, OH 44115-1843

Mail Date: 08/04/2010

Applicant	: Ralf Klotsche	: DECISION ON REQUEST FOR
Patent Number	: 7653347	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/636,984	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/12/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **664** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Application of	:
Hideki HASHIBA	:
Application No. 11/637,013	:
Filed: December 12, 2006	:
Patent No. 7,409,942	:
Issued: August 12, 2008	:
Attorney Docket No. 249-441 (AMK)	:

NOTICE UNDER 37 CFR. 1.28(c)

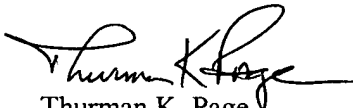
This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Michelle R. Eason at (571) 272-4231.


Thurman K. Page
Petitions Examiner
Office of Petitions



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AT&T LEGAL DEPARTMENT – HBH
ATTN: PATENT DOCKETING
ONE AT&T WAY, ROOM 2A-207
BEDMINSTER, NJ 07921

MAILED
SEP 16 2011
OFFICE OF PETITIONS

In re Application of :
Steven Tischer et al :
Application No. 11/637,264 : DECISION GRANTING PETITION
Filed: December 12, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. :
02121CON/60027.5238USC1 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, September 16, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 15, 2011 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2614 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).



UNITED STATES PATENT AND TRADEMARK OFFICE

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PERKINS COIE LLP
P.O. BOX 1208
SEATTLE WA 98111-1208

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Paulo TAYLOR, et al	:	
Application No. 11/637,268	:	DECISION ON PETITION
Filed: December 11, 2006	:	TO WITHDRAW
Attorney Docket No. 63017-8002.US01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 23, 2010.

The request is **NOT APPROVED**.

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

In this regard, the request to withdraw from record cannot be approved because no change of address for future communications from the Office has been provided.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/dgc/
Diane Goodwyn
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS MN 55402

MAILED
MAR 26 2012
OFFICE OF PETITIONS

In re Application of

Stemmer

Application No. 11/637,317

Filed: December 11, 2006

Attorney Docket No. **42P25123**

:
:
:
: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 21, 2012, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned on January 9, 2011, for failure to file a timely appeal brief after the filing of a Notice of Appeal on November 8, 2010. A Notice of Abandonment was mailed June 24, 2011.

The Request for Continued Examination filed February 21, 2012, is noted.

The application file is being forwarded to Technology Center GAU 2181 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SYNOPSYS, INC./BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

MAILED

FEB 11 2011

OFFICE OF PETITIONS

In re Application of :
Champaka RAMACHANDRAN, et al. :
Application No. 11/637,360 : DECISION GRANTING PETITION
Filed: December 11, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **2986P040C** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 10, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 29, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.134, the signature of Ms. Judith Szepesi appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party on whose behalf she acts. If Ms. Szepesi desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted.

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2825 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SYNOPSYS, INC./BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

MAILED

NOV 18 2011

OFFICE OF PETITIONS

In re Application of :
Champaka Ramachandran et al :
Application No. 11/637,360 : **DECISION GRANTING PETITION**
Filed: December 11, 2006 : **UNDER 37 CFR 1.313(c)(2)**
Attorney Docket No. 2986P040C :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, November 15, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 1, 2011 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2825 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).



UNITED STATES PATENT AND TRADEMARK OFFICE

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PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of
Paulo Taylor, et al.
Application No. 11/637,514
Filed: December 11, 2006
Attorney Docket No. 63017-8004.US01

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 23, 2010.

The request is **NOT APPROVED**.

The Office will no longer accept address changes to a new practitioner of law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request does not include an acceptable current correspondence address for future communications from the Office.

Additionally, as set forth in MPEP 403(I), the addition or deletion of a practitioner from the list of persons associated with a Customer Number should be done by way of a *Request for Customer Number Data Change* (PTO/SB/124) and not a *Request for Withdrawal As Attorney or Agent and Change of Correspondence Address* (Form PTO/SB/83).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ELMORE PATENT LAW GROUP, PC
515 Groton Road
Unit 1R
Westford MA 01886

MAILED

SEP 17 2010

OFFICE OF PETITIONS

In re Application of

RADHAKRISHNAN P. IYER ET AL.

Application No. 11/637,520

Filed: December 12, 2006

Attorney Docket No. 4011.3005 US2

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed June 21, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40.

The request was signed by Darlene A. Vanstone on behalf of all attorneys of record who are associated with Customer Number 38473.

All attorneys/agents associated with Customer Number 38473 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first name inventor Radhakrishnan P. Iyer at the address list listed in the request.

There is an outstanding Office action mailed June 23, 2010, that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Radhakrishnan P. Iyer
113 Cedar Street
Suite 7-S
Milford MA 01757



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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KING & SPALDING
1180 PEACHTREE STREET, NE
ATLANTA GA 30309-3521

MAILED

AUG 30 2010

In re Application

Pfeifer, et al.

Application No. 11/637,607

Filed: December 12, 2006

Dkt. No.: ACI-0600 (13704.105015)

OFFICE OF PETITIONS

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PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. § 1.705(d) OF PATENT TERM ADJUSTMENT," filed July 7, 2010. This matter is being properly treated pursuant to 37 CFR 1.705(b), the request having been filed prior to issuance of a patent.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 460 days, not 309 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

Insofar as the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is DISMISSED as PREMATURE.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time

of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee¹.

Receipt is hereby acknowledged of the required patent term adjustment application fee under 37 CFR 1.705(b) of \$200.00. See, 37 CFR 1.18(e).

However, any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, practitioner's signature appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If practitioner desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to practitioner, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

¹ For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: Stephen C. MacDonald
Johnson & Associates
317A East Liberty Street
Savannah, Georgia 31401



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Nov-11

SMARTDRIVE SYSTEMS, INC.
P.O. BOX 757
LA JOLLA CA 92038

MAILED

NOV 14 2011

OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION FOR
Plante et al.	:	EXPEDITED CONSIDERATION
Application No. 11/637,754	:	AND
Filed: 12/13/2006	:	DECISION ON PETITION TO
Attorney Docket No. 266.14	:	WITHDRAW HOLDING OF
	:	ABANDONMENT

This is a decision on the paper filed on August 18, 2011, which is treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181. This is also a decision in reference to the "Petition to Expedite 37 CFR 1.182," which is treated as a petition to expedite the consideration of the above-referenced petition.

The petition for expedited consideration is **GRANTED**.

The petition to withdraw the holding of abandonment is **DISMISSED**.

The application was held abandoned for failure to timely file a reply to the non-final Office action mailed on March 11, 2010, which set a three (3)-month shortened statutory period for reply. Notice of Abandonment was mailed on October 28, 2010.

On August 18, 2010, the subject petition paper was filed, accompanied by a copy of the reply asserted to have been timely filed. Petitioners also included a copy of a "Certificate of Mailing Under 37 CFR 1.8" itemizing the response to the Office action and identifying the application by first-named inventor's last name and application number. The certificate of mailing, however, was not signed.

On November 3, 2011, the subject petition for expedited consideration was filed, along with a signed copy of the Certificate of Mailing, dated June 1, 2010, and itemizing the filing of the answer to the Office action.

Petitioners registered patent practitioner, Joseph Page, provided an additional paper entitled "NOTICE OF MAILING UNDER 37 CFR § 1.8(b)" in which counsel states that he has personal knowledge of the mailing of the reply. Counsel further states that the copy of the reply mailed to the USPTO on June 1, 2010, contained a properly-signed certificate of mailing, but that the petition filed on August 18, 2011, was inadvertently sent with an unsigned copy of the certificate of mailing.

Upon review, the certificate of mailing, which is signed by petitioner's attorney, states:

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Assistant Commissioner for Patents
Washington, D.C. 20231

on 6/1/2010

The address to which the correspondence was mailed, however, is not a valid address for sending mail to the USPTO.

In this regard, 37 CFR 1.1(a) states:

In general. Except as provided in paragraphs (a)(3)(i), (a)(3)(ii) and (d)(1) of this section, all correspondence intended for the United States Patent and Trademark Office must be addressed to either "Director of the United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313-1450" or to specific areas within the Office as set out in paragraphs (a)(1), and (a)(3)(iii) of this section. When appropriate, correspondence should also be marked for the attention of a particular office or individual.

(1) Patent correspondence.

(i) *In general.* All correspondence concerning patent matters processed by organizations reporting to the Commissioner for Patents should be addressed to: Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450.

Furthermore, on March 29, 2005, the USPTO published a notice in the *Official Gazette* stating, in pertinent part:

The United States Postal Service (USPS) has ceased forwarding to the USPTO correspondence addressed to Washington, DC 20231. Additionally, the USPTO will no longer arrange for the delivery to Alexandria, VA of correspondence addressed to Washington, DC 20231 after April 3, 2005. Thus, after April 3, 2005, all correspondence addressed to the Washington, DC 20231 address will be returned to sender marked by the USPS as undeliverable. Such mail returned to the sender by the USPS will not be considered proof of prior filing or mailing under 37 CFR 1.8(b) or 1.10(e) since the correspondence was not mailed in accordance with 37 CFR 1.1.

Pursuant to 37 CFR 1.1, correspondence intended for the USPTO must be mailed to P.O. Box 1450, Alexandria, VA 22313-1450, except as otherwise provided.

1. Correspondence intended for the USPTO, unless directed otherwise, must be addressed to:

Director of the U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

2. Correspondence in patent-related matters to organizations reporting to the Commissioner for Patents must be addressed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450¹

(emphasis added)

The subject reply is asserted to have been mailed on June 1, 2010, which is after April 3, 2005. As such, the showing of record is that petitioner's counsel did not mail the correspondence in accordance with 37 CFR 1.8(b), inasmuch as the correspondence was not mailed to the proper address.

¹ See 1292 O.G. 186.

As such, the showing of record is that there is no evidence that a reply was timely filed in response to the Office action mailed on March 11, 2010. The petition to withdraw the holding of abandonment is therefore **DISMISSED**.

Petitioners may wish to consider filing a petition under 37 CFR 1.137(b) to revive the application.

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the date of this decision. This period may not be extended.²

Receipt of the \$400.00 fee under § 1.17(f) for the petition to expedite is acknowledged. No further fees are due in connection with this petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Service Window
 Mail Stop Petition
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

A reply may also be filed by EFS-Web.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

² 37 CFR 1.181(f).



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DTW Jan-12

SMARTDRIVE SYSTEMS, INC.
P.O. BOX 757
LA JOLLA CA 92038

MAILED

JAN 23 2012

OFFICE OF PETITIONS

In re Application of
Plante et al.
Application No. 11/637,754
Filed: 12/13/2006
Attorney Docket No. 266.14

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ON PETITION

This is a decision in response to the petition under 37 CFR 1.137(b) filed on December 22, 2011, to revive the above-identified application. This is also a decision on the concurrently-filed petition under 37 CFR 1.182 to expedite consideration of the petition under 37 CFR 1.137(b).

The petitions are **GRANTED**.

The application became abandoned on June 12, 2010, for failure to timely submit a reply to the non-final Office action mailed on March 11, 2011, which set a three (3) month shortened statutory period for reply. On August 18, 2011, an untimely reply was filed. On November 3, 2011, a petition to withdraw the holding of abandonment was filed. On November 14, 2011, the petition was dismissed. The filing of the subject petition precedes the mailing of Notice of Abandonment.

The amendment filed on August 18, 2011 will be considered the required reply.

The application is being referred to Technology Center Art Unit 2624 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : December 22, 2011

In re Application of :

David Solomon

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11637807

Filed : 13-Dec-2006

Attorney Docket No : 5302-052-US08

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed December 22, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 2477 for processing of the request for continuing examination under 37 CFR 1.114.

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web		PTO/SB/140 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)	
Application Number	11637807	
Filing Date	13-Dec-2006	
First Named Inventor	David Solomon	
Art Unit	2477	
Examiner Name	YONG ZHOU	
Attorney Docket Number	5302-052-US08	
Title	GPON MANAGEMENT SYSTEM	
<p>An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.</p> <p>APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).</p> <p>A grantable petition requires the following items:</p> <p>(1) Petition fee; and</p> <p>(2) One of the following reasons:</p> <p>(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;</p> <p>(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or</p> <p>(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).</p>		
<p>Petition Fee</p> <p><input type="checkbox"/> Applicant claims SMALL ENTITY status. See 37 CFR 1.27.</p> <p><input type="checkbox"/> Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).</p> <p><input type="checkbox"/> Applicant(s) status remains as SMALL ENTITY.</p> <p><input checked="" type="checkbox"/> Applicant(s) status remains as other than SMALL ENTITY</p>		
Reason for withdrawal from issue		

- ☐ One or more claims are unpatentable
- ☒ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees)
- ☐ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).

RCE request, submission, and fee.

- ☐ I certify, in accordance with 37 CFR 1.4(d)(4) that:
- ☐ The RCE request, submission, and fee have already been filed in the above-identified application on
- ☒ Are attached.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- ☐ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ☐ A sole inventor
- ☐ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors
- ☐ A joint inventor; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Michael A Schwartz/
Name	Michael A. Schwartz
Registration Number	40161



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of
Paulo Taylor, et al.
Application No. 11/637,964
Filed: December 11, 2006
Attorney Docket No. 63017-8003.US01

**DECISION ON PETITION
TO WITHDRAW
FROM RECORD**

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 23, 2010.

The request is **NOT APPROVED**.

The Office will no longer accept address changes to a new practitioner of law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request does not include an acceptable current correspondence address for future communications from the Office.

Additionally, as set forth in MPEP 403(I), the addition or deletion of a practitioner from the list of persons associated with a Customer Number should be done by way of a *Request for Customer Number Data Change* (PTO/SB/124) and not a *Request for Withdrawal As Attorney or Agent and Change of Correspondence Address* (Form PTO/SB/83).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 08/16/11

TO SPE OF : ART UNIT 2877

SUBJECT : Request for Certificate of Correction for Appl. No.: 11638036 Patent No.: 7876434

CofC mailroom date: 08/11/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Randolph Square – 9D10-A

Palm Location 7580

You can fax the Directors/SPE response to 571-273-3421

Note:

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

XX Approved

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments:

/Gregory J. Toatley, Jr./

SPE

2877

Art Unit



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**MARK G. LAPPIN
FOLEY & LARDNER LLP
111 HUNTINGTON AVENUE
BOSTON, MA 02199**

MAILED

JUN 16 2011

OFFICE OF PETITIONS

In re Patent No. 7,956,793 :
Issue Date: June 7, 2011 :
Application No. 11/638,043 :
Filed: May 13, 2002 :
Attorney Docket No. 0209US-TSI :

ON PETITION

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed June 1, 2011.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THE NATH LAW GROUP
112 SOUTH WEST STREET
ALEXANDRIA, VA 22314

MAILED

AUG 09 2010

OFFICE OF PETITIONS

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

In re Application of
Schwartz et al.
Application No. 11/638,062
Filed: December 11, 2006
Attorney Docket No. 93123A2

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This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed on July 19, 2010.

The request is **NOT APPROVED**.

The Office no longer accepts address changes to a new practitioner or law firm filed with requests under 37 C.F.R. § 1.36(b). The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71*, or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.

All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

There is an outstanding Office action mailed March 12, 2010, that require a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Alicia Kelley
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 21 2011

OFFICE OF PETITIONS

**MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111**

In re Application of	:	
Mark KLEIN	:	
Application No. 11/638,166	:	DECISION ON PETITION
Filed: December 13, 2006	:	
Docket No. 41885-501C01US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 20, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 3, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 4, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment and Terminal Disclaimer, (2) the petition fee of \$810; and (3) and the required statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See In re Application of S.*, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$555 extension of time fee submitted with the petition on December 20, 2010, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's Deposit Account No. 50-0311.

The Terminal Disclaimer is acknowledged and will be processed by the Technology Center.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 3728 for appropriate action by the Examiner in the normal course of business.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions



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FINA TECHNOLOGY INC.
PO BOX 674412
HOUSTON, TX 77267-4412

MAILED

FEB 09 2012

OFFICE OF PETITIONS

In re Application of
Abbas Razavi, et al.
Application No. 11/638,169
Filed: December 13, 2006
Attorney Docket No.: COS-957-DIV2

ON PETITION

This is a decision in response to the petition, filed January 6, 2012, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is not signed by a registered attorney or agent of record. However, in accordance with 37 CFR 1.34(a), the signature of Michael Locklar appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Attorney Locklar desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The petition is **GRANTED**.

The above-identified application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of September 29, 2011 by the Board of Patent Appeals and Interferences. A Notice of Abandonment was mailed on December 23, 2011. On January 6, 2012, the present petition was filed.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

It is noted that the petition did not include a response in the present application to continue prosecution; however, petitioner indicates the reply to the outstanding Office action is in the form of a "Continuation Application." The petition is not accompanied by a statement of express abandonment in favor of the filing of the continuation application.

In order to facilitate action, the petition to revive should include reference to the filing of a continuing application *and* a letter of express abandonment, conditional upon the granting of the petition and of a filing date to the continuing application. Nevertheless, in view of the statement that the reply is the filing of a continuation application, the statement will be construed as a request to expressly abandon this application in favor of the continuing application. If this was not the intent of applicant, the Office should be promptly notified.

The petition, as construed, satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuation application under 37 CFR 1.53(b); (2) the petition fee of \$1,860; and (3) an adequate statement of unintentional delay¹.

This application is being revived solely for the purpose of continuity with Application No. 13/344,368 filed on January 5, 2012. As continuity has been established by revival of this application, this application is again abandonment in favor of continuing Application No. 13/344,368.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MICHAEL LOCKLAR
4615 SW FREEWAY, SUITE 630
HOUSTON, TX 77027

¹ 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.



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FEB 04 2011

OFFICE OF PETITIONS

Scott A. Whitaker, Ph.D., J.D., Sr.
Intellectual Property Counsel
BioNumerik Pharmaceuticals, Inc.
8122 Datapoint Drive, Suite 1250
San Antonio, TX 78229

In re Application of
Frederick H. Hausheer
Application No. 11/638,193
Filed: December 13, 2006
Attorney Docket No. X-0256

NOTICE

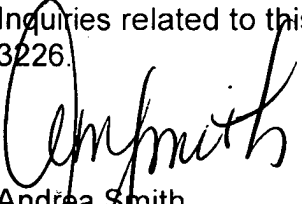
This is a Notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on December 1, 2010.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. Therefore, status as a small entity has been removed and any future fee(s) submitted must be paid at the large entity rate.

Additionally, the request is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Scott A. Whitaker appearing on the request shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.


Andrea Smith
Petitions Examiner
Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web		PTO/SB/64 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	
Application Number	11638304	
Filing Date	12-Dec-2006	
First Named Inventor	Thomas Brown	
Art Unit	2879	
Examiner Name	MARICELI SANTIAGO	
Attorney Docket Number	15155.40	
Title	HIGHLY TRANSMISSIVE ELECTROLUMINESCENT LAMP HAVING A LIGHT EMISSIVE LAYER COMPOSITION INCORPORATING PHOSPHOR NANO-PARTICLES AND DIELECTRIC NANO-PARTICLES	
<p>The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.</p> <p>APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION</p> <p>NOTE: A grantable petition requires the following items:</p> <ol style="list-style-type: none"> (1) Petition fee; (2) Reply and/or issue fee; (3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications; (4) Statement that the entire delay was unintentional. 		
<p>Petition fee</p> <p>The petition fee under 37CFR 1.17(m) is attached.</p> <p><input type="checkbox"/> Applicant claims SMALL ENTITY status. See 37 CFR 1.27.</p> <p><input type="checkbox"/> Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).</p> <p><input checked="" type="checkbox"/> Applicant(s) status remains as SMALL ENTITY.</p> <p><input type="checkbox"/> Applicant(s) status remains as other than SMALL ENTITY.</p>		
<p>Issue Fee and Publication Fee :</p> <p>Issue Fee and Publication Fee must accompany ePetition.</p> <p><input checked="" type="checkbox"/> Issue Fee Transmittal is attached</p>		
<p>Drawing corrections and/ or other deficiencies.</p>		

- ☒ Drawing corrections and/ or other deficiencies are not required
- ☐ I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on
- ☐ Drawing corrections and/ or other deficiencies are attached.

☒ STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- ☐ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ☐ A sole inventor
- ☐ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors.
- ☐ A joint inventor; all of whom are signing this e-petition.
- ☐ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/jathomas/
Name	John A. Thomas
Registration Number	29980



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : December 21, 2011

In re Application of :

Thomas Brown

Application No : 11638304

Filed : 12-Dec-2006

Attorney Docket No : 15155.40

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed December 21, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Issue Fee(s) Due. The date of abandonment is the day after the expiration date of the period set for reply in the Notice.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee and the Publication Fee (if necessary); (2) the petition fee as set forth in 37 CFR 1.17 (m); (3) the drawing correction and/or other deficiencies (if necessary); and (4) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being directed to the Office of Data Management.

Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/12/11

TO SPE OF : ART UNIT 2871

SUBJECT : Request for Certificate of Correction for Appl. No.: 11638414 Patent No.: 8031304

CofC mailroom date: 12/01/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Randolph Square – 9D10-A

Palm Location 7580

You can fax the Directors/SPE response to 571-273-3421

Note: Should the changes to Other Publications be approved?

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

SPE RESRONSE FOR CERTIFICATE OF CORRECTION

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____



2871

SPE

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 02-25-12

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/638500 Patent No.: 7598154

CofC mailroom date: 02-07-12

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square - 9D10-A
Palm Location 7580

Note: _____


Angela Green 571.272.9005

CofC Branch 703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved In Part**

Specify below which changes do not apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

SPE



Art Unit

AU2818

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 02-25-12

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/638500 Patent No.: 7598154

CofC mailroom date: 02-07-12

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square - 9D10-A
Palm Location 7580

Note: _____


Angela Green 571.272.9005

CofC Branch 703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved In Part**

Specify below which changes do not apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

SPE

Stim Loh

Art Unit

AU2818



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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

MAILED

FEB 17 2011

OFFICE OF PETITIONS

In re Application of	:	
Satoru KAMOHARA, et al.	:	
Application No. 11/638,538	:	DECISION GRANTING PETITION
Filed: December 14, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2611-0276PUS1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 10, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 26, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 3741 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the information disclosure statement filed February 14, 2011.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.



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ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

MAILED

SEP 27 2010

In re Application of

ARCUSIN, Carlos

Application No. 11/638,691

Filed: December 14, 2006

Attorney Docket No. 026254-00052

OFFICE OF PETITIONS

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 01, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by G. Peter Albert, Jr. on behalf of all attorneys of record who are associated with customer No. 04372. All attorneys/agents associated with the Customer Number 04372 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor Carlos Arcusin at the address indicated below. There is an outstanding Office action mailed May 17, 2010 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **CARLOS ARCUSIN**
AV. DEL LIBERTADOR 2698
12TH FLOOR
BUENOS AIRES
ARGENTINA



UNITED STATES PATENT AND TRADEMARK OFFICE

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VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

MAILED

JUN 02 2011

OFFICE OF PETITIONS

In re Application of Zhongjun Wang et. al. :
Application No. 11/638,707 :
Filed: December 14, 2006 : **DECISION ON PETITION**
Attorney Docket No. 37042-239408 :
:

This is a decision on the request filed March 10, 2011, requesting a refund of the previously charged \$400 fee for consideration of a petition filed January 28, 2011.

The request for refund is **GRANTED**.

Office records indicate that a petition was filed on January 28, 2011 under the provisions of 37 CFR 1.183 "to suspend the rules to consider the concurrently filed Supplement to Issue Fee Transmittal." The application matured into a patent on February 15, 2011. As the petition was not acted upon prior to the issuance of the patent, the petition fee paid therefor is unnecessary and is being refunded to Deposit account 22-0261, as authorized. In view of the instant request for refund, the petition filed January 28, 2011 is considered to have been withdrawn by the applicant.

Telephone inquiries related to this decision should be addressed to the undersigned at (571) -272-4914.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions



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MACMILLAN, SOBANSKI
& TODD, LLC
ONE MARITIME PLAZA/FIFTH FLOOR
720 WATER STREET
TOLEDO OH 43604

MAILED
APR 04 2011
OFFICE OF PETITIONS

In re Application of :
Jenne :
Application No. 11/638,758 : DECISION
Filed/Deposited: 14 December, 2006 :
Attorney Docket No. 25659A :

This is a decision on the petition filed on 26 January, 2011, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly, to the final Office action mailed on 29 June, 2010, with reply due absent extension of time on or before 29 September, 2010.

On 28 December, 2010, Petitioner filed (with request and fee for extension of time) an after-final amendment, which the Examiner refused to enter and Petitioner—as one registered to practice

Application No. 11/638,758

before the Office—knew was not as of right and not a proper reply¹ if it did not *prima facie* place the application in condition for allowance.

The application went abandoned by operation of law after midnight 29 December, 2010.

On 18 January, 2011, the Examiner mailed an Advisory Action.

It does not appear that the Office mailed the Notice of Abandonment before a petition was filed.

On 26 January, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, with a statement of unintentional delay and a reply in the form of a request for continued examination (RCE) and fee and a submission under the provisions of 37 C.F.R. §1.114 in the form of an amendment

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation—since all owe to the Office the continuing duty to disclose.²

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).³ The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and, by definition, are not intentional.⁴))

¹ A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission under 37 C.F.R. §1.114). (See: MPEP §711.03(c).)

² See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

³ 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 3743 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2⁵) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

⁴ Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

⁵ The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/01/10

TO SPE OF : ART UNIT 2187

SUBJECT : Request for Certificate of Correction for Appl. No.: 11638902 Patent No.: 7653784

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580**

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not apply.**

☐ **Denied**

State the reasons for denial below.

Comments: None.

/Kevin Ellis/

2187

SPE

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/12/11

TO SPE OF : ART UNIT 2483

SUBJECT : Request for Certificate of Correction for Appl. No.: 11638989 Patent No.: 7991052

CofC mailroom date: 12/02/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Randolph Square – 9D10-A

Palm Location 7580

You can fax the Directors/SPE response to 571-273-3421

Note: Should the changes be made?

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

/Joseph G. Ustaris/

2483

SPE

Art Unit



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**DIEHL SERVILLA LLC
33 WOOD AVE SOUTH
SECOND FLOOR, SUITE 210
ISELIN, NJ 08830**

MAILED
OCT 20 2010
OFFICE OF PETITIONS

In re Application of	:	
Flather et al.	:	DECISION ON PETITION
Application No. 11/639,017	:	TO WITHDRAW
Filed: December 14, 2006	:	FROM RECORD
Attorney Docket No. ANS0013-01CT	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed September 30, 2010, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **DISMISSED**.

A review of the file record indicates that Diehl Servilla LLC does not have power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

The request to change the correspondence address of record is not accepted in view of Diehl Servilla LLC not having power of attorney. See MPEP §§ 601.03 and 405.

All future communications from the Office will continue to be directed to the address listed below until otherwise notified by applicant.

Currently, an Advisory Action was mailed October 4, 2010 in the above-identified application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: MOSER IP LAW GROUP/ANSELL LIMITED
1030 BROAD STREET, SUITE 203
SHREWSBURY NJ 07702



UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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GEORGE REISCH ASCHAUER
2214 RED OAK CT.
BEMIDJI MN 56601

MAILED
FEB 16 2011
OFFICE OF PETITIONS

In re Application of	:	
ASCHAUER, GEORGE R.	:	
Application No. 11/639,056	:	DECISION ON PETITION
Filed: 12/15/2006	:	
Title: MOTOR DRIVEN BALL AND RAMP	:	
CLUTCHING SYSTEM FOR A MARINE	:	
TRANSMISSION	:	

This is a decision on the petition under 37 CFR 1.137(a), filed November 15, 2010, to revive the above-identified application.

The application became abandoned on July 22, 2010, for failure to file a proper response to the final Office action mailed on April 21, 2010, which set a three (3) month shortened statutory period for reply. On May 13, 2010, petitioner submitted an amendment in response to the final Office action. However, the examiner found this amendment did not *prima facie* place the application in condition for allowance. An Advisory Action accompanies the present decision. A Notice of Abandonment was mailed on November 3, 2010.

In the petition, petitioner asserted that he filed a timely response to the final Office action of April 21, 2010; however, petitioner placed an incorrect application number (11/369,056) on the reply. The reply in the form of an amendment was located in the file of Application No. 11/369,056 and was transferred to the correct application, No. 11/639,056. Accordingly, the amendment after final rejection was filed timely; however, the amendment did not *prima facie* place the application in condition for allowance. Therefore, the application became abandoned for failure to file a proper reply to the final Office action.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

- (1) the required reply, unless previously filed.

- (2) the petition fee as set forth in § 1.17(l);
- (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
- (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to 1.137(d).

This petition lacks items (1) and (3) above.

As to item (1), the Examiner has reviewed the amendment filed May 13, 2010, in response to the final Office action and has issued an Advisory Action Before the Filing of an Appeal Brief, which is enclosed. As stated in the Advisory Action, the Examiner has concluded that the amendment failed to place this application in condition for allowance. For this reason, there is no dispute that the application is abandoned for failure to submit a proper reply to the final Office action. Petitioner has not submitted a proper reply to the outstanding final Office action with the present petition. In a nonprovisional application abandoned for failure to reply to a final action, the reply required for consideration of a petition to revive must be:

- (1) A Notice of Appeal and appeal fee;
- (2) An amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise *prima facie* places the application in condition for allowance;
- (3) The filing of an RCE (accompanied by a submission that meets the reply requirements of 37 CFR 1.111 and the requisite fee) under 37 CFR 1.114 for utility or plant applications filed on or after June 8, 1995; or
- (4) The filing of a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR 1.53(d) if the application is a design application).

With any renewed petition, petitioner must submit a proper reply to the outstanding final Office action.

As to item (3), the showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).¹ Specifically, an application is “unavoidably” abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.²

A response to a final Office action may be entered if it presents an amendment that *prima facie* places the application in condition for allowance. However, the admission or refusal to admit any amendment

¹ See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

² *Ex parte Pratt*, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

after final, and any related proceedings, will not operate to relieve the application from its condition subject to appeal or save the application from abandonment under 37 CFR 1.135.³ Further, the entry of an after-final amendment is not a matter of right, and it is incumbent upon an applicant to take steps to ensure against abandonment of an application.

In the present case, the record reveals that petitioner did not take appropriate action to ensure that a proper response was timely filed so as to prevent the application from becoming abandoned. It is regrettable that the Office did not mail an Advisory Action until after the six month statutory period ran; however, it is clear from 37 CFR 1.116 that abandonment of an application is risked when an amendment after a final Office action is filed. Abandonment takes place by operation of law for failure to timely submit a proper reply to an Office action, not by the mailing of an Advisory Action.⁴ This rule clearly indicates that the mere filing of an amendment does not save the application from abandonment. Only the filing of a Notice of Appeal, a Request for Continued Examination accompanied by a proper submission, or a continuing application guarantees the pendency of the application, not filing an amendment after final rejection. Thus, the application became abandoned due to petitioner's failure to file a Notice of Appeal, RCE and submission, or continuing application prior to the expiration of the time period for reply to the final Office action and not because of any error on the part of the U.S. Patent and Trademark Office.

Petitioner has not provided a sufficient showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable. Moreover, petitioner has not submitted a proper reply to the outstanding final Office action. Accordingly, the petition under 37 CFR 1.137(a) is **dismissed**.

Any request for reconsideration must be filed within TWO (2) MONTHS from the mailing date of this decision. The request should be entitled "Renewed Petition under 37 CFR 1.137(a)." Any extensions of time will be governed by 37 CFR 1.136(a).

In the alternative, petitioner may wish to file a petition under 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition under 37 CFR 1.137(b) must be accompanied by:

- (1) The required reply to the outstanding Office action;
- (2) The petition fee as set forth in 1.17(m); and,
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

³ See 37 CFR 1.116.

⁴ MPEP 711.03(c). See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 299-30 (CCPA 1964); Krahn v. Comm'r, 15 USPQ2d 1823, 1824 (E.D. Va. 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1984).

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Correspondence may also be submitted electronically via the EFS-Web System.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Advisory Action Before the Filing of an Appeal Brief (2 pages)

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

11/639,056

Applicant(s)

ASCHAUER, GEORGE REISCH

Examiner

Rodney H. Bonck

Art Unit

3655

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 May 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Rodney H. Bonck/
Primary Examiner, Art Unit 3655

Continuation of 3. NOTE: The proposed claim changes are not in compliance with 37 CFR 1.121 and include language changes from the finally rejected claims that would require further consideration or search (e.g., "an electric motor rotating means" changed to "rotating means"). The proposed substitute specification was submitted without a marked-up copy to show changes and without a statement that no new matter has been introduced..



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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GEORGE REISCH ASCHAUER
2214 RED OAK CT.
BEMIDJI MN 56601

MAILED

MAY 27 2011

OFFICE OF PETITIONS

In re Application of	:	
ASCHAUER	:	
Application No. 11/639,056	:	ON PETITION
Filed: December 15, 2006	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 11, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 21, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance (see attached Advisory Action), the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office

Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane C. Godwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

11/639,056

Applicant(s)

ASCHAUER, GEORGE REISCH

Examiner

RODNEY BONCK

Art Unit

3655

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 March 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: _____.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Rodney H. Bonck/
Primary Examiner, Art Unit 3655

Continuation of 3. NOTE: The proposed claim and specification changes are not in compliance with 37 CFR 1.121. Determining what changes have been made in the claims would require further consideration. The claims are still met by the prior art as applied in the final rejection.



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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Jenifer A. Harchick
7761 White Heron Trail
Alexandria, VA 22306

MAILED
JAN 30 2012
OFFICE OF PETITIONS

In re Application of	:	
Gordon Jay Lytell	:	
Application No. 11/639,277	:	DECISION ON PETITION
Filed: December 15, 2006	:	TO WITHDRAW
Attorney Docket No. 6739	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 6, 2012.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Jenifer A. Harchick. Jenifer A. Harchick has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Breiner & Breiner, L.L.C.**
P.O. Box 320160
Alexandria, VA 22320-0160



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KING & SPALDING
1180 PEACHTREE STREET, NE
ATLANTA GA 30309-3521

MAILED

FEB 28 2011

OFFICE OF PETITIONS

In re Application of :
Preston A. Henne et al. :
Application No. 11/639,339 : **DECISION ON PETITION**
Filed: December 15, 2006 :
Attorney Docket No. **17198.105015** :

This is a decision on the petition under 37 CFR 1.182, filed March 27, 2007¹, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

As authorized, the \$400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Any questions concerning this matter may be directed to JoAnne Burke at (571) 272-4584. Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3741 for the normal course of business.

JoAnne Burke
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

¹ The delay in responding to the petition is sincerely regretted.



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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
11/639,339	12/15/2006	3741	1730	17198.105015	28	4

CONFIRMATION NO. 4861

CORRECTED FILING RECEIPT



OC000000046242253

20786
KING & SPALDING
1180 PEACHTREE STREET, NE
ATLANTA, GA 30309-3521

Date Mailed: 02/28/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Timothy R. Conners, Statesboro, GA;
Donald C. Howe, Savannah, GA;
Preston A. Henne, Hilton Head, SC;

Power of Attorney: The patent practitioners associated with Customer Number 20786

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/750,345 12/15/2005

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see <http://www.uspto.gov> for more information.)

If Required, Foreign Filing License Granted: 02/28/2011

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/639,339**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Isentropic compression inlet for supersonic aircraft

Preliminary Class

137

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/6/10

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No. 11/639,366: 7769581

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Should the change(s)
Be made?

RoChaun Johnson
Certificates of Correction Branch
571 272-0470

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: Yes, please make the changes.

Thanks

/Amare Mengistu/

2629

SPE

Art Unit



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MAILED

SEP 09 2011

OFFICE OF PETITIONS

ELMORE PATENT LAW GROUP, PC
484 Groton Road
Westford MA 01886

In re Application of :
Andreas MERSHIN et al. : **ON PETITION**
Application No. 11/639,372 :
Filed: December 14, 2006 :
Atty. Docket No.: 4041.3001 US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 25, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed February 23, 2011 (outstanding Office action), which set a shortened statutory period for reply of three (3) months. A three month extension of time under the provisions of 37 CFR 1.136(a) was obtained. An After Final Amendment was filed August 18, 2011. An Advisory Action was mailed August 30, 2011. The application became abandoned August 24, 2011.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a Notice of Appeal and Appeal fee under 37 CFR 41.20, (2) a petition fee of \$1620, and (3) a statement of unintentional delay. The filing of the Notice of Appeal and Appeal fee is accepted as having been unintentionally delayed.

Telephone inquiries regarding this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

This application is being referred to Technology Center Art Unit 1725.


for Anthony Knight
Director
Office of Petitions



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/639,372	12/14/2006	Andreas Mershin	4041.3001 US1	4175
38473 7590 11/29/2011 ELMORE PATENT LAW GROUP, PC 484 Groton Road Westford, MA 01886			EXAMINER TRINH, THANH TRUC	
			ART UNIT 1725	PAPER NUMBER
			NOTIFICATION DATE 11/29/2011	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@elmorepatents.com



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Mailed:

11/29/2011

BC

In re application of :
Andreas Mershin et al. :
Serial No. 11/639,372 :
Filed: December 14, 2006 :
For: BIO-SENSITIZED SOLAR CELLS (BSSC) :

DECISION ON
PETITION

This is a decision on the PETITION UNDER 37 CFR 1.181 FOR ENTRY OF THE AFTER FINAL AMENDMENT AND DECLARATION UNDER RULE 132 filed October 31, 2011.

On February 23, 2011, a final office action was mailed to Applicants. Applicants responded on August 18, 2011 to this office action by filing a Rule 132 declaration to overcome the prior art rejections. The response of August 18, 2011 also included an administrative amendment to the specification which proposed the addition of a "Government Support" section to the specification. In an Advisory Action mailed on August 30, 2011, the examiner refused entry of the declaration based on untimeliness and did not mention the entry status of the amendment to the specification.

On October 31, 2011, the instant petition under 37 CFR 1.181 was timely filed to request the entry of the after final declaration and amendment to the specification of August 30, 2011.

Petitioner's position is that there is good and sufficient reasons by this declaration was not earlier presented and that the declaration should be entered. Additionally, the petitioner states that the addition of the "Government Support" section to the specification does not require any further consideration or search and does not raise the issue of new matter; thus, entry of this amendment should be approved.

DECISION

Section 716.01 of the MPEP concerning Rule 132 declarations states in part:

Affidavits and declarations submitted under 37 CFR 1.132 and other evidence traversing rejections are considered timely if submitted:

- (1) prior to a final rejection,
- (2) before appeal in an application not having a final rejection,
- (3) after final rejection, but before or on the same date of filing an appeal, upon a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented in compliance with 37 CFR 1.116(e); or
- (4) after the prosecution is closed (e.g., after a final rejection, after appeal, or after allowance) if applicant files the affidavit or other evidence with a request for continued examination (RCE) under 37 CFR 1.114 in a utility or plant application filed on or after June 8, 1995; or a continued prosecution application

(CPA) under 37 CFR 1.53(d) in a design application.

In the Advisory Action mailed August 30, 2011, the examiner states that the declaration submitted on August 18, 2011 was untimely and would not be considered. Petitioner urges that good and sufficient reasons have been presented as to why the declaration is necessary and why it was not submitted earlier. Specifically, the petitioner states that the declaration could not have been presented earlier because it was submitted in response to a specific invitation made by the examiner in the final rejection and responds to specific reasons for rejection asserted in the final rejection. In the final rejection, the examiner stated that "...factual evidence of such secondary issues of nonobviousness...would be required to overcome the prima facie case of obviousness made in the rejection" (Final Rejection, pg. 10). It is clear that the declaration filed was an attempt by the applicant to provide the "factual evidence" that the examiner deemed to be requesting in the final rejection. Accordingly, the petition for entry and consideration of the declaration filed on August 18, 2011 is **GRANTED**.

Regarding the entry of the proposed amendment to the specification filed on August 18, 2011. It is agreed that the addition of the proposed "Government Support" section would not require further consideration or search and would not raise the issue of new matter. Accordingly, the petition for entry of the amendment filed on August 18, 2011 is **GRANTED**.

The application is being forwarded to the examiner for full consideration and entry of the declaration and amendment.

/W. GARY JONES/
W. Gary Jones
Director, Technology Center 1700
Chemical and Materials Engineering

ELMORE PATENT LAW GROUP, PC
484 Groton Road
Westford MA 01886



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/639,594	12/15/2006	Vijay Srinivasan	060885-00032.001UTL	7151
64199	7590	01/18/2011		
WARD AND SMITH, P.A. 1001 COLLEGE COURT P.O. BOX 867 NEW BERN, NC 28563-0867			EXAMINER GORDON, BRIAN R	
			ART UNIT 1773	PAPER NUMBER
			NOTIFICATION DATE 01/18/2011	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@wardandsmith.com
eem@wardandsmith.com



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Mailed: 1/18/2011

wk

In re application of
Srinivasan et al.
Serial No. 11/639,594
Filed: December 15, 2006
For: FILLER FLUIDS FOR DROPLET OPERATIONS

DECISION ON
PETITION

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 on November 10, 2010 to withdraw the final status of the Office Action dated November 10, 2010.

In the Office Action dated November 10, 2010, the Examiner introduced new grounds for rejection and states the rejection was necessitated by Applicants' amendment. Applicants amended claims 1, 23, 25-26 and 36-38. Claim 1 was amended to recite the features of cancelled claim 2. Previously claims 2-3, 5-17, 19-20, 23, and 25-38 depended from claim 1. Claims 21-24 depended from claim 20. Applicants assert that the features of claim 2 that were added to claim 1 were previously presented and the added features could have been rejected in an earlier Office Action but were not. Applicants further assert that the only other amendment to claim 1 was made in response to the Examiner's 112 second paragraph rejection of claim 1, regarding the location of the droplet and filler fluid relative to each other. Applicants' amendment clarifies that the droplet is surrounded by the filler fluid.

In the previous Office Action, claims 1-3, 14, 16-17, 19, 21-22, 24 and 27-32 were rejected under 35 USC 112, second paragraph. Claims 1-3, 5-9, 13-17, 19-22 and 27-35 were rejected under 35 USC 102(a) and (e) as being anticipated by Link et al. Claims 25-26 and 36-38 were rejected under 35 USC 103(a) over Link et al.

The Examiner found Applicants' arguments with respect to the rejections in view of Link to be persuasive and withdrew the rejection. A new ground of rejection was made in view of Kolar et al., Fraden et al. and Chiu et al. Applicants pointed out that Link's priority date is after the priority date of Applicants' disclosure and could not be used as prior art.

MPEP 706.07(a) states that under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims, nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

The new ground of rejection of independent claim 1 made in the Final Office Action was not necessitated by a claim amendment or an Information Disclosure Statement.

DECISION

11/639,594

2

The petition for withdrawal of finality is **GRANTED.**

The period for response will continue run from the mail date of November 10, 2010.

/Yvonne Eyler/

Yvonne L. Eyler, Director
Technology Center 1700
Chemical and Materials Engineering

Ryan Simmons
WARD AND SMITH, P.A.
1001 COLLEGE COURT
P.O. BOX 867
NEW BERN NC 28563-0867

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20101112

DATE : November 15, 2010

TO SPE OF : ART UNIT 2471

SUBJECT : Request for Certificate of Correction on Patent No.: 7,733,781

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Certificates of Correction Branch - PK 3-910

Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes do not apply.

☐ **Denied**

State the reasons for denial below.

Comments:

All changes have been considered as requested. Changes requested to correct claims 17, 20-21 are directed to changes that do not introduce new matter and do not affect the scope or meaning of the claims.

SPE: /Chi H. Pham/

Art Unit 2471



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C/O MURABITO, HAO & BARNES LLP
TWO NORTH MARKET STREET
THRID FLOOR
SAN JOSE CA 95113

MAILED

AUG 03 2011

OFFICE OF PETITIONS

In re Application of

Lee, et al.

Application No. 11/639,666

Filed: 15 December, 2006

Attorney Docket No.: SPSN-AF02167

DECISION
ON PETITION

This is a decision on the petition under 37 C.F.R. §1.78(a)(3), filed 11 July, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed application.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 C.F.R. §1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 C.F.R. §1.78(a)(2)(ii). In addition, the petition under 37 C.F.R. §1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. §120 and 37 C.F.R. §1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in §1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 C.F.R. §1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

On first petition Petitioner stated only that the reference required "was previously submitted" without an express identification of the date on which the reference was

Application No. 11/639,666

submitted.¹ Moreover, Petitioner sought to claim priority to and “incorporate by reference” Provisional Application 60/764,847 (the ‘847 application). However, Petitioner identified neither the application number nor Petitioner’s application docket for the ‘847 application on deposit of the instant application—and instead set forth only a filing date, to wit:

[0001] This application claims the benefit of U.S. Provisional Application No. 60/, (sic) filed on February 4, 2006, the specification of which is hereby incorporated in its entirety by reference

On dismissal of the original petition on 29 June, 2010—more than a year before Petitioner elected to renew his petition—the Office reminded Petitioner that his attempted “incorporation by reference” was improper. Nonetheless, Petitioner repeated the same language in the amendment submitted with the renewed petition.

Thus, once again, Item (1), above, is not present.

The amendment as filed contains a prohibited incorporation by reference statement (see: Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). On deposit on 20 October, 2009, the instant application did not include an incorporation by reference of the Provisional Application No. 60/764,847, filed on 4 February, 2006. Nonetheless, Petitioner has submitted an amendment which seeks to do so now. Such is not a proper amendment.

The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 C.F.R. §1.78(a)(2)(i) and under 37 C.F.R. §1.78(a)(5)(i).

Accordingly, the petition under 37 CFR 1.78(a)(3) is **dismissed**.

This application is released to Technology Center/AU 1644 for further processing in due course.

¹ Petitioner submitted several amendments over the prosecution of the instant application. The Office located an amendment filed on 17 March, 2009—without a proper petition pursuant to 37 C.F.R. §1.78(a)(3)—identifying Provisional Application 60/764,847, filed on 4 February, 2006, as the application to which Petitioner then wished to claim priority. In the absence of Petitioner’s explicit identification in this petition of the amendment to which Petitioner refers, the Office treated Petitioner’s inexplicit statement to incorporate the identification of the 17 March, 2009, amendment.

Application No. 11/639,666

Any questions concerning this decision on petition may be directed to John J. Gillon, Jr., attorney, at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

A handwritten signature in black ink, appearing to read "Chris Bottorff", written in a cursive style.

Chris Bottorff
Supervisory Petitions Examiner
Office of Petitions



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MAILED
FEB 09 2012
OFFICE OF PETITIONS

In re Application of	:	
Lee, et al.	:	
Application No. 11/639,666	:	DECISION
Filed: 15 December, 2006	:	ON PETITION
Attorney Docket No.: SPSN-AF02167	:	

This is a decision on the petition under 37 C.F.R. §1.78(a)(6), filed on 10 October, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed application.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 C.F.R. §1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 C.F.R. §1.78(a)(5)(ii). In addition, the petition under 37 C.F.R. §1.78(a)(6) must be accompanied by:

- (1) the reference required by 35 U.S.C. §119(e) and 37 C.F.R. §1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in §1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 C.F.R. §1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR

Application No. 11/639,666

1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

On 10 October, 2011, Petitioner renewed the petition and submitted with it a new amendment. The requirements set forth above having been satisfied, the late claim for priority under 35 U.S.C. §120 is accepted as being unintentionally delayed.

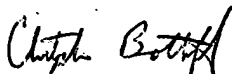
The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 C.F.R. 1.78(a)(6) should not be construed as meaning that the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 119(e) and 37 C.F.R. 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application(s), accompanies this decision on petition.

This application is being released to the Technology Center/AU for further processing in due course and the Examiner's consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §119(e) to the above-noted, prior-filed applications.

Questions concerning this decision on petition may be directed to John J. Gillon, Jr. attorney, at (571) 272-3214.

All other inquiries concerning either the status of the application or examination procedures should be directed to the Technology Center.



Christopher Bottorff
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt



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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY DOCKET NO	TOT CLAIMS	IND CLAIMS
11/639,666	12/15/2006	2813	1600	SPSN-AF02167	20	6

CONFIRMATION NO. 6329

CORRECTED FILING RECEIPT



OC000000052506830

71326

SPANSION LLC C/O MURABITO, HAO & BARNES LLP
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SAN JOSE, CA 95113

Date Mailed: 02/09/2012

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections

Applicant(s)

Chungho Lee, Sunnyvale, CA;
Wei Zheng, Santa Clara, CA;
Chi Chang, Saratoga, CA;
Unsoon Kim, San Jose, CA;
Hiroyuki Kinoshita, San Jose, CA;

Power of Attorney: The patent practitioners associated with Customer Number 71326

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/764,847 02/04/2006

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see <http://www.uspto.gov> for more information.)

If Required, Foreign Filing License Granted: 01/26/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/639,666**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Memory cells having split charge storage nodes and methods for fabricating memory cells having split charge storage nodes

Preliminary Class

438

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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The United States represents the largest, most dynamic marketplace in the world and is an unparalleled location for business investment, innovation and commercialization of new technologies. The USA offers tremendous resources and advantages for those who invest and manufacture goods here. Through SelectUSA, our nation works to encourage, facilitate, and accelerate business investment. To learn more about why the USA is the best country in the world to develop technology, manufacture products, and grow your business, visit SelectUSA.gov.



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D/B/A COVIDIEN
555 LONG WHARF DRIVE
MAIL STOP 8-N1, LEGAL DEPARTMENT
NEW HAVEN CT 06511**

MAILED

JUL 28 2011

OFFICE OF PETITIONS

In re Application of :
EXLINE, et al :
Application No. 11/639,675 : **DECISION ON PETITION**
Filed: December 15, 2006 :
Attorney Docket No. 2381 CON3 (203-3040C :
ON3)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 7, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before June 9, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed March 9, 2011, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 10, 2011. A Notice of Abandonment mailed June 24, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$1510 and publication fee of \$300; (2) the petition fee of \$1620; and (3) the required statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Since the issue and publication fees were previously paid on June 10, 2011, the issue and publication fees paid on July 7, 2011, are unnecessary and will be refunded to Deposit Account No. 21-0550.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

The application is being referred to the Office of Data Management for processing into a patent.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: JOSEPH W. SCHMIDT
CARTER, DELUCA, FARRELL & SCHMIDT, LLP
445 BROAD HOLLOW ROAD, SUITE 420
MELVILLE, NY 11747



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CATERPILLAR INC./LIELL & MCNEIL
INTELLECTUAL PROPERTY DEPARTMENT
AH9510
100 N.E. ADAMS
PEORIA, IL 61629-9510

MAILED
APR 29 2011
OFFICE OF PETITIONS

In re Application of
Richard E. Livesay
Application No. 11/639,795
Filed: December 15, 2006
Attorney Docket No.: 06-199

:
:
:
:
:

ON PETITION

This is a decision in response to the petition, filed March 10, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 16, 2010, which set a shortened statutory period for reply of three (3) months.

No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 17, 2010. A Notice of Abandonment was mailed on February 11, 2011. On March 10, 2011, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of \$1,620; and (3) an adequate statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application is being referred to Technology Center AU 3617 for appropriate action by the Examiner in the normal course of business on the amendment received March 10, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JONATHAN F. YATES
511 S. MADISON STRETT, P.O. Box 2417
BLOOMINGTON, IN 47402



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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

MAILED

FEB 17 2012

OFFICE OF PETITIONS

In re Application of :
Srinivas Kavuri :
Application No. 11/639,830 :
Filed: December 15, 2006 :
Attorney Docket No. COMMV.089P1 :
DECISION ON PETITIONS UNDER
37 CFR 1.313(c)(2) AND 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 15, 2012, to withdraw the above-identified application from issue after payment of the issue fee. This is also a decision on the petition filed February 15, 2012, under 37 CFR §1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §119(c) for the benefit of the prior-filed application set forth in the concurrently filed amendment and Application Data Sheet (ADS).

The petitions are **GRANTED**.

As to the petition under 37 CFR 1.313(c)(2):

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 3, 2012, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.

As to the petition under 37 CFR §1.78(a)(6):

A petition for acceptance of a claim for late priority under 37 CFR §1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §1.78(a)(5)(ii). In addition, the petition under 37 CFR §1.78(a)(6) must be accompanied by:

- (1) the reference required by 35 U.S.C. §119(e) and 37 CFR §1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR §1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR §1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR § 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Application No. 11/639,830

-3-

This application is being forwarded to Technology Center Art Unit 2186 for consideration by the examiner of the claim under 35 U.S.C. § 119(e) of the prior-filed provisional application.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt



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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
11/639,830	12/15/2006	2186	1986	COMMV.089P1	28	2

CONFIRMATION NO. 7062

CORRECTED FILING RECEIPT



20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Date Mailed: 02/21/2012

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Srinivas Kavuri, South Plainfield, NJ;

Power of Attorney: The patent practitioners associated with Customer Number 20995

Domestic Priority data as claimed by applicant

This application is a CIP of 11/120,619 05/02/2005 PAT 7343453
and claims benefit of 60/752,197 12/19/2005
and claims benefit of 60/752,196 12/19/2005
and said 11/120,619 05/02/2005
claims benefit of 60/567,178 04/30/2004

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see <http://www.uspto.gov> for more information.)

If Required, Foreign Filing License Granted: 01/19/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/639,830**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

SYSTEM AND METHOD FOR ALLOCATION OF ORGANIZATIONAL RESOURCES

Preliminary Class

711

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

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LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

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JAN 24 2012

OFFICE OF PETITIONS

In re Application of
Larry M. Weisenthal
Application No. 11/639,873
Filed: December 15, 2006
Attorney Docket No. 602992000100

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 20, 2011, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement by an attorney on behalf of inventor Larry M. Weisenthal, attesting to his/her age. The above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

The application is being forwarded to Technology Center 1651 for action on the merits commensurate with this decision.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions



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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS, CO 80528

MAILED

JAN 19 2011

OFFICE OF PETITIONS

In re Application of :
Vladek P. KASPERCHIK, et al. :
Application No. 11/639,908 : **DECISION ON PETITION**
Filed: December 16, 2006 : **UNDER 37 CFR 1.137(b)**
Attorney Docket No. **200601414-1** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 20, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before November 9, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed August 9, 2010. Accordingly, the date of abandonment of this application is November 10, 2010.

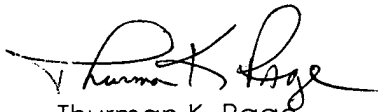
It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$1510 and the publication fee of \$300, (2) the petition fee of \$1620; and (3) a proper statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Office of Data Management Division for processing into a patent.

A handwritten signature in black ink, appearing to read 'Thurman K. Page', with a stylized flourish at the end.

Thurman K. Page
Petitions Examiner
Office of Petitions



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United States Patent and Trademark Office
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NOTICE OF ALLOWANCE AND FEE(S) DUE

22879 7590 08/09/2010

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS, CO 80528

EXAMINER

MULVANEY, ELIZABETH EVANS

ART UNIT

PAPER NUMBER

1785

DATE MAILED: 08/09/2010

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/639,908	12/16/2006	Vladek P. Kasperchik	200601414-1	5773

TITLE OF INVENTION: COATING FOR OPTICAL RECORDING

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	11/09/2010

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

- A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.
- B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

- A. Pay TOTAL FEE(S) DUE shown above, or
- B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.



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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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**NUTTER MCCLENNEN & FISH LLP
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604**

MAILED
SEP 07 2010
OFFICE OF PETITIONS

Patent No. 7,607,936	:	
Issue Date: October 27, 2009	:	
Application No. 11/639,920	:	ON PETITION
Filed: November 14, 2006	:	
Attorney Docket No. 109650-66981	:	

This is a decision on the petition filed July 30, 2010, under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the Kimberly Inabinet at (571) 272-4618. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Carl Friedman
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE

: 9/6/2011

TO SPE OF

: ART UNIT 1725

SUBJECT

: Request for Certificate of Correction for Appl. No.: 11/640014 Patent No.: 7985305 B2

CofC mailroom date: 8/26/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580**

Note: _____

Virginia Tolbert

Certificates of Correction Branch

(571) 272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

Kevin Ridley
SPE

1725
Art Unit



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DOUGLAS T. JOHNSON
MILLER & MARTIN
1000 VOLUNTEER BUILDING
832 GEORGIA AVENUE
CHATTANOOGA, TN 37402-2289

MAILED

OCT 21 2010

OFFICE OF PETITIONS

In re Application of
Rajeev Bhatia
Application No. 11/640,029
Filed: December 15, 2006
Attorney Docket No. 04783-0100

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 8, 2010, to revive the above-identified application.

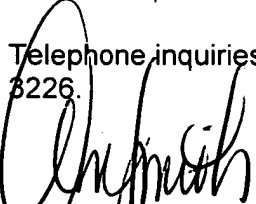
The application became abandoned for failure to timely file a timely response to the non-final Office action mailed September 30, 2009. A Notice of Abandonment was mailed on April 26, 2010.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application; (2) the petition fee of \$810; and (3) an adequate statement of unintentional delay. Therefore, the petition is granted.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/807,520.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.


Andrea Smith
Petitions Examiner
Office of Petitions



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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

MAILED

JUN 02 2011

OFFICE OF PETITIONS

In re Application of
Boo Young Kim
Application No. 11/640,096
Filed: December 14, 2006
Attorney Docket No. 12580-5237

:
: **DECISION ON APPLICATION**
: **FOR PATENT TERM ADJUSTMENT**
:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR § 1.705(b)," filed May 20, 2011. Applicants request that the patent term adjustment at the time of the mailing of the Notice of Allowance be corrected from 453 days to 563 days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is FIVE HUNDRED SIXTY-THREE (563) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 22, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 453 days. The instant application for patent term adjustment was timely filed¹. Applicants dispute the reduction of 110 days of PTA for applicant delay in filing an Information Disclosure Statement (IDS) on May 18, 2010 after the filing of a response to a non-final Office Action on January 28, 2010.

Applicants specifically state that the patent issuing from the application is not subject to a terminal disclaimer.

A review of the record reveals that on January 28, 2010 applicants filed a response to the non-final Office action mailed September 29, 2009 with a one month extension of time. Then on May 18, 2010, applicants filed the Information Disclosure Statement (IDS). Pursuant to 37 CFR § 1.704(c)(8), the submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, is a failure to engage in reasonable efforts to conclude prosecution. The record does not support a conclusion that the IDS was expressly requested by the examiner. Accordingly, filing of the IDS may be considered a failure to engage and a proper basis for reduction.

¹ PALM records indicate that the Issue Fee was also received on May 20, 2011.

However, the record supports a conclusion that the IDS was received May 18, 2010 with a 37 CFR 1.704(d) statement.

37 CFR 1.704(d) provides that a paper containing only an information disclosure statement in compliance with 37 CFR 1.97 and 1.98 will not be considered (result in a reduction) under 37 CFR 1.704(c)(6), 1.704(c)(8), 1.704(c)(9), or 1.704(c)(10) if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in 37 CFR 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This provision will permit applicants to submit information first cited in a communication from a foreign patent office in a counterpart application to the Office without a reduction in patent term adjustment if an information disclosure statement is promptly (within thirty days of receipt of the first communication) submitted to the Office. Compliance with the statement requirement of 37 CFR 1.704(d) does not substitute for compliance with any relevant requirement of 37 CFR 1.97 or 1.98. 37 CFR 1.704(d) also provides that this thirty-day period is not extendableeeply was expressly requested by the examiner, within the meaning of § 1.704(c)(8). Accordingly, no reduction is warranted.

In view thereof, no reduction should have been taken for the filing of the IDS after the mailing of the response to the non-Final Office Action on January 28, 2010.

Receipt of the \$200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

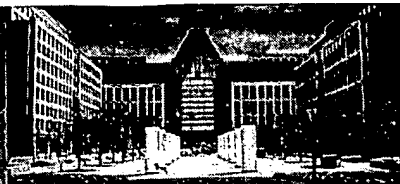
Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3212.



Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



Patent Term Adjustments



PTA/PTE Information Patent Term Adjustment Patent Term Extension

Application Number*: 11640096 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 11640096

Application Filing Date	12/14/2006	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays	593
A Delays	593	PTO Manual Adjustment	110
B Delays	0	Applicant Delay (APPL)	140
C Delays	0	Total PTA (days)	563

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
57	06/01/2011		P028	Adjustment of PTA Calculation by PTO	110	0	
48	02/22/2011		MN/=.	Mail Notice of Allowance		0	
47	02/18/2011		IREV*	Issue Revision Completed		0	
46	02/18/2011		N/=.	Notice of Allowance Data Verification Completed		0	
45	02/18/2011		DVER	Document Verification		0	
44	02/14/2011		CNTA	Allowability Notice		0	
42	12/10/2010		FWDX	Date Forwarded to Examiner		0	
41	12/08/2010		A...	Response after Non-Final Action		0	
40	09/14/2010		MCTNF	Mail Non-Final Rejection		0	
39	09/13/2010		CTNF	Non-Final Rejection		0	
38	08/25/2010		FWDX	Date Forwarded to Examiner		0	
35	08/25/2010		ABN9	Disposal for a RCE / CPA / R129		0	
37	08/24/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE		0	
36	08/24/2010		RCEX	Request for Continued Examination (RCE)		0	
34	08/24/2010		BRCE	Workflow - Request for RCE - Begin		0	
33	05/25/2010		MCTFR	Mail Final Rejection (PTOL - 326)		0	
32	05/24/2010		CTFR	Final Rejection		0	
31	05/18/2010	01/28/2010	M844	Information Disclosure Statement (IDS) Filed		110	29
30	02/25/2010		FWDX	Date Forwarded to Examiner		0	
29	01/28/2010	12/29/2009	A...	Response after Non-Final Action		30	27
28	01/28/2010		XT/G	Request for Extension of Time - Granted		0	
27	09/29/2009	02/14/2008	MCTNF	Mail Non-Final Rejection	593	0.5	
26	09/28/2009		CTNF	Non-Final Rejection		0	
21	09/10/2009		DOCK	Case Docketed to Examiner in GAU		0	
20	03/10/2009		DOCK	Case Docketed to Examiner in GAU		0	
22	03/21/2008		IDSC	Information Disclosure Statement considered		0	
19	03/21/2008		M844	Information Disclosure Statement (IDS) Filed		0	
18	03/21/2008		WIDS	Information Disclosure Statement (IDS) Filed		0	
17	07/19/2007		PG-ISSUE	PG-Pub Issue Notification		0	
16	05/11/2007		DOCK	Case Docketed to Examiner in GAU		0	
14	04/02/2007		TI1050	Transfer Inquiry to GAU		0	
13	01/23/2007		TSSCOMP	IFW TSS Processing by Tech Center Complete		0	
11	01/18/2007		WROIPE	Application Return from OIPE		0	
10	01/18/2007		ROIPE	Application Return TO OIPE		0	
9	01/18/2007		WROIPE	Application Return from OIPE		0	
8	01/18/2007		COMP	Application Is Now Complete		0	
7	01/18/2007		W/OA	Pre-Exam Office Action Withdrawn		0	
6	01/18/2007		ROIPE	Application Return TO OIPE		0	
5	01/18/2007		OIPE	Application Dispatched from OIPE		0	
4	01/18/2007		COMP	Application Is Now Complete		0	
3	01/03/2007		L194	Cleared by OIPE CSR		0	
2	12/22/2006		SCAN	IFW Scan & PACR Auto Security Review		0	
15	12/14/2006		C602	Oath or Declaration Filed (Including Supplemental)		0	
12	12/14/2006		RQPR	Request for Foreign Priority (Priority Papers May Be Included)		0	
1	12/14/2006		IEXX	Initial Exam Team nn		0	
0.5	12/14/2006		EFILE	Filing date		0	

Export to: Excel

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 4, 2011

TO SPE OF : ART UNIT 1772

SUBJECT : Request for Certificate of Correction for Appl. No.: 11640116 Patent No.: 7846383

CofC mailroom date: Aug. 23,
2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Certificates of Correction Branch
703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not apply.**

☐ **Denied**

State the reasons for denial below.

Comments: _____

In Sub Ballou
SPE, Art Unit 1772



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MAILED

SEP 12 2011

OFFICE OF PETITIONS

**SENNIGER POWERS LLP
100 NORTH BROADWAY
17TH FLOOR
ST LOUIS MO 63102**

In re Application of	:	
Ronald P. HOHMANN Jr.	:	ON PETITION
Application No. 11/640,151	:	
Filed: December 14, 2006	:	
Atty. Docket No.: MLP 7382	:	

This is in response to the petition under 37 CFR 1.137(b), filed August 17, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Fee(s) Due mailed March 14, 2011 (Notice), which set a period for reply of three (3) months. No reply was received, and the application became abandoned June 15, 2011. A Notice of Abandonment was mailed June 30, 2011.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of payment of the issue and publication fees in accordance with the Notice mailed March 14, 2011, (2) a petition fee of \$1620, and (3) a statement of unintentional delay. The reply to the Notice is accepted as being unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg.

53171, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was intentional, petitioner must notify the Office.

Telephone inquiries regarding this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

The application will be referred to Office of Data Management for processing of the filed response.


for Anthony Knight
Director
Office of Petitions



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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 08/02/2010

Applicant	: Alex Horng	: DECISION ON REQUEST FOR
Patent Number	: 7649291	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/640,188	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/18/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **28** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

MAILED
SEP 15 2011
OFFICE OF PETITIONS

In re Application of :
Tina Sampalis :
Application No. 11/640,235 : DECISION GRANTING PETITION
Filed: December 18, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 100793.53076D1 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 13, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 17, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1653 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.



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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED

AUG 3 1 2011

OFFICE OF PETITIONS

In re Application of	:
Manabu Kii, et al.	:
Application No. 11/640,275	: DECISION GRANTING PETITION
Filed: December 18, 2006	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 09812.0863	:

This is a decision on the renewed petition under 37 CFR 1.313(c)(2), filed August 30, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 23, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries regarding the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2179 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

¹ *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/640,286	12/18/2006	Ralph Ballentin	LUTZ 200816	6427
48116	7590	04/07/2011		
FAY SHARPE/LUCENT 1228 Euclid Avenue, 5th Floor The Halle Building Cleveland, OH 44115-1843			EXAMINER TAYONG, HELENE E	
			ART UNIT 2611	PAPER NUMBER
			MAIL DATE 04/07/2011	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



UNITED STATES PATENT AND TRADEMARK OFFICE

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FAY SHARPE/LUCENT
1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland OH 44115-1843

In re Application of:
BALLENTIN, RALPH et al
Application Serial No.: 11/640,286
Filed: December 18, 2006
For: **METHOD FOR PERFORMING FREQUENCY
SELECTIVE CONTROL CHANNEL
SCHEDULING IN NETWORKS USING AN OFDM
SPECTRUM, A BASE STATION, A MOBILE
TERMINAL AND A NETWORK THEREFOR**

DECISION
ON PETITION

This is a decision on the petition filed February 10, 2011 under 37 CFR § 1.181, requesting the Director to invoke his supervisory authority and withdraw the finality of the final Office action mailed November 8, 2010.

PERTINENT BACKGROUND

This application was filed December 18, 2006.

A first Office action was issued January 7, 2010 rejecting claims 1-4 and 8-11 under 35 USC 103(a) as being unpatentable over Li et al. (US 6,947,748) in view of Katsumi (EP 1246423). Claims 5-7 were objected to as being dependent upon a rejected base claim, but indicated as allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

A response to the first Office action was timely filed and received in the US Patent and Trademark Office on March 25, 2010. In addition to amendments for matters of formality, claims 1, 9, 10 and 11 were amended, claim 7 was canceled, and new claims 12-21 were added. Significantly, the amendment to claim 1 incorporated all the limitations of claim 7, creating a claim that was an independent version of claim 7, which had been indicated as allowable.

A second non-final action was issued June 22, 2010 rejecting: claims 1-3, 8-10, 11-13, 16-17 and 19-20 under 35 USC 103(a) as being unpatentable over Li in view of Katsumi and further in view Classon (US 2007/0064669); and claims 4 and 14 under 35 USC 103(a) as being unpatentable over Li in view of Katsumi and further in view of Classon and further in view of NPL by Haustein. Claims 5-6, 15, 18 and 21 were objected to as being dependent upon a rejected base claim, but indicated as allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Since claim 1 was identical in scope to the prior version of claim 7, the introduction of Classon constituted new grounds of rejections and the action was issued as non-final accordingly.

A response to the second non-final Office action was timely filed and received in the US Patent and Trademark Office on August 30, 2010. Independent claims 1, 9, 10 and 11 were amended,

dependent claims 2, 5, 12, 16 and 19 were canceled, and new claims 22-25 were added. Significantly, while the amendment to claim 1 incorporated all the limitations of claims 5, which had been indicated as allowable and intervening claim 2, limitation that had been in claim 1 were deleted. Similar limitations were deleted from the other amended independent claims.

A Final Office action was issued on November 10, 2010 with: claims 1, 3, 4, 8-11, 13-14, 17-18 and 20-25 rejected under 35 USC 103(a) as being unpatentable over Li in view of Katsumi and further in view Wang et al. (US 2010/0226453); claims 4 and 14 rejected under 35 USC 103(a) as being unpatentable over Li in view of Katsumi and further in view of Wang and further in view of the Haustein NPL; and claims 20-25 rejected under 35 USC 103(a) as being unpatentable over Li in view of Katsumi and further in view of Wang and further in view of Classon. Claims 6, 15, 18 and 21 were objected to as being dependent upon a rejected base claim, but indicated as allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

On February 10, 2011, Applicants filed an amendment after Final.

On February 10, 2011, Petitioner seeks relief by filing a petition under 37 CFR 1.181 requesting the finality of the Final Office action of November 10, 2010 be withdrawn.

REGULATIONS AND PRACTICE

37 CFR § 1.113(a) states in part that:

(a) On the second or any subsequent examination or consideration by the examiner the rejection or other action may be made final, whereupon applicant's or patent owner's reply is limited to appeal in the case of rejection of any claim (§ 1.191) or to amendment as specified in § 1.116. ...

MPEP § 706.07(a) states in part that:

Under present practice, second or any subsequent action on the merits shall be final, except where the examiner introduces a new ground of rejection that is (not) necessitated by applicant's amendment of the claims...

OPINION

Petitioner contends that since the current claim 1 is identical in scope to original claim 5, which was indicated as allowable in the first non-final action, the subsequent rejection of that claim constitutes new grounds in spite of the intermediate amendments made.

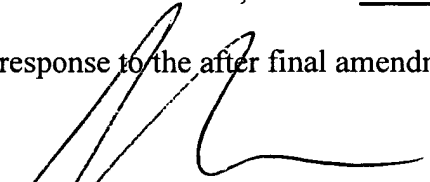
A review of the record finds that the new grounds of rejection in the action mailed November 10, 2010 were made necessary by applicant's broadening the scope of the claims by deletion of certain limitations in the amendment filed August 30, 2010. The fact that this amendment created a claim that had been indicated as allowable in an earlier phase of prosecution does not obviate that necessity. Had applicant presented that claim in the amendment filed on March 25, 2010, the examiner could have included the new of rejection in the second non-final action. Since the applicant failed to do so, there was no opportunity for examiner to present the rejection

until the final action. The examiner has no obligation to present rejections of claims that have been canceled or otherwise removed from prosecution by the applicant.

CONCLUSION

For the above stated reasons, the petition to withdraw the finality of the Final Office action mailed November 10, 2010 is **DENIED**.

A response to the after final amendment filed on February 10, 2011 will be mailed in due course.



John L. LeGuyader, Director
Technology Center 2600
Communications



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

SEP 29 2011

OFFICE OF PETITIONS

MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON VA 22215

In re Application of :
Russak, et al. : **DECISION ON PETITION**
Application No. 11/640,311 :
Filed: December 18, 2006 :
Atty. Dkt. No.: 32804 :

This decision is in response to the petition under 37 CFR 1.137(b), filed September 22, 2011.

The petition is **GRANTED**.

The application became abandoned September 24, 2010 for failure to timely submit a proper reply to the non-final Office action mailed June 23, 2010. The non-final Office action set a three month shortened statutory period of time for reply. No petition for extension of time under 37 CFR 1.136(a) was timely filed. Notice of Abandonment was mailed January 3, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been carefully reviewed and found in compliance with the requirements set forth above.

This application is being forwarded to Group Art Unit 2174 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/640,317	12/18/2006	Kiyokazu Takemura	130628	6929
25944 7590 06/14/2011 OLIFF & BERRIDGE, PLC P.O. BOX 320850 ALEXANDRIA, VA 22320-4850				
			EXAMINER KURTZ, BENJAMIN M	
			ART UNIT 1778	PAPER NUMBER
			NOTIFICATION DATE 06/14/2011	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

OfficeAction25944@oliff.com
jarmstrong@oliff.com



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Oliff & Berridge, PLC
P.O. Box 320850
Alexandria, VA 22320-4850

JUN 14 2011

In re application of
Kiyokazu Takemura, et al.

Serial Number: 11/640,317
Filed: December 18, 2006

**NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR. 1.313**


For: **FLAT MEMBRANE ELEMENT AND MANUFACTURING METHOD THEREOF**

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn from issue to permit reopening of prosecution. The examiner will communicate an office action to you.

Patent and Trademark Office records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

The application is being forwarded to the examiner for action. Telephone inquiries may be directed to Nam Nguyen at 571-272-1342.

for 
Yvonne Eyler, Director
Technology Center 1700
Chemical and Materials Engineering

**WILLIAM GARY JONES
DIRECTOR
TECHNOLOGY CENTER 1700**

rt/ 6/10/11

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/25/11

TO SPE OF : ART UNIT 3653

SUBJECT : Request for Certificate of Correction for Appl. No.: 11640392 Patent No.: 7871067

CofC mailroom date: 03/11/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☐ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes do not apply.

☒ **Denied**

State the reasons for denial below.

Comments: Regarding the first change, the Supervisory Patent Examiner's full name is "Stefanos Karmis." Therefore no change is required. Regarding the changes to column 11, claim 9 and column 12, claim 17, these changes are for typos made by Applicant. These mistakes are applicant mistakes rather than Office mistakes and

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

therefore the Certificate of Correction should be filed pursuant to 37 C.F.R. §1.322 and must be accompanied with the appropriate fee under 37 C.F.R. §1.20(a).

/Stefanos Karmis/

3653

SPE

Art Unit



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed : 05/04/11

Patent No. : 7871067 B2
Patent Issued : 01/18/11
Docket No. : 1900.1030

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Respecting the alleged errors in the documents filed on 03/11/11; please see attachments.

"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."

In view of the foregoing, your request in this matter is hereby denied.

A handwritten signature in cursive script that reads "Lamonte M. Newsome".

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

**STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005**

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/25/11

TO SPE OF : ART UNIT 3653

SUBJECT : Request for Certificate of Correction for Appl. No.: 11640392 Patent No.: 7871067

CofC mailroom date: 03/11/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☐ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☒ **Denied**

State the reasons for denial below.

Comments: Regarding the first change, the Supervisory Patent Examiner's full name is "Stefanos Karmis." Therefore no change is required. Regarding the changes to column 11, claim 9 and column 12, claim 17, these changes are for typos made by Applicant. These mistakes are applicant mistakes rather than Office mistakes and

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

therefore the Certificate of Correction should be filed pursuant to 37 C.F.R. §1.322 and must be accompanied with the appropriate fee under 37 C.F.R. §1.20(a).

/Stefanos Karmis/

3653

SPE

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20101103

DATE : November 4, 2010

TO SPE OF : ART UNIT 2829

SUBJECT : Request for Certificate of Correction on Patent No.: 7718518

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Certificates of Correction Branch - PK 3-910

Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments:

Certificate of Correction filed 9/30/2010 has been approved by the examiner.

SPE: /Jack Chiang/

Art Unit 2825



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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MAGINOT, MOORE & BECK
CHASE TOWER
SUITE 3250
111 MOUNMENT CIRCLE
INDIANAPOLIS, IN 46204

MAILED

AUG 13 2010

In re Application of
SOREN SONNTAG ET AL.
Application No. 11/640,535
Filed: December 15, 2006
Attorney Docket No. 1890-0440

OFFICE OF PETITIONS

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR. § 1.36(b), filed July 2, 2010.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to attorneys/agents associated with the above-identified application has been revoked by the applicants of the patent application on July 8, 2010. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Eschweiler & Associates (Lantiq)
629 Euclid Avenue
Suite 1000
Cleveland OH 44114

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 07/11/11

TO SPE OF : ART UNIT: **2113 Attn: BEAUSOLIEL JR ROBERT W (SPE)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11/640542** Patent No.: **RE41991E**

CofC mailroom date: 07/01/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: Please check Claim 22

Tasneem Siddiqui

Certificates of Correction Branch

703-756-1814 & 703-756-1593

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **1 Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

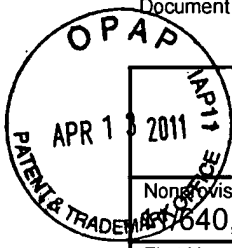
Comments: _____

/Robert Beausoliel/ ☒

2113

SPE

Art Unit



**CERTIFICATION AND REQUEST
FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN** (Page 1 of 2)

Nonprovisional Application Number or Control Number (if applicable): 640,615	Patent Number (if applicable):
First Named Inventor: Melvin Bernard Diaz	Title of Invention: Latch apparatus for portable electronic ...

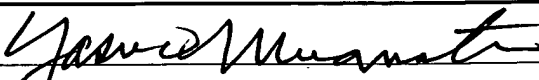
APPLICANT/PATENTEE/REEXAMINATION PARTY HEREBY CERTIFIES AND REQUESTS THE FOLLOWING FOR THE ABOVE-IDENTIFIED APPLICATION/PATENT/REEXAMINATION PROCEEDING.

1. FOR PATENT APPLICATIONS AND REEXAMINATION PROCEEDINGS PENDING IN THE USPTO AS OF MARCH 11, 2011, IN WHICH A COMMUNICATION FROM THE USPTO IS SOUGHT TO BE REMAILED:
 - a. One or more inventors, an assignee, or a correspondence address (for the application/proceeding) is in an area of Japan affected by the earthquake and/or tsunami of March 11, 2011.
 - b. A reply or response to an Office action (final, non-final, or other), a notice of allowance, or other Office notice (hereinafter collectively referred to as "Office communication") is outstanding on March 11, 2011.
 - c. The statutory or non-statutory time period set for response has not yet expired.
 - d. Withdrawal and reissuance of the Office communication is requested.
 - e. It is acknowledged that if this request is not made within sufficient time so that withdrawal and reissuance of the Office communication occur prior to expiration of the statutory or non-statutory time period (as permitted to be extended under 37 CFR 1.136(a), or as extended under 37 CFR 1.550(c) or 1.956), this request may not be granted.
 - f. The need for the reissuance of the Office communication was due to the effects of the earthquake and/or tsunami of March 11, 2011.
 - g. This request is being sent via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
2. FOR PATENTEES WHO WERE UNABLE TO TIMELY PAY A PATENT MAINTENANCE FEE DURING THE SIX-MONTH GRACE PERIOD FOLLOWING THE WINDOW TO PAY THE MAINTENANCE FEE:
 - a. The original window of time to pay the maintenance fee without the surcharge required by 37 CFR 1.20(h) expired on or after March 11, 2011.
 - b. The delay in paying the fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
 - c. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(h) for paying a maintenance fee during the six-month grace period following the window to pay the maintenance fee.
 - d. This request and payment of the maintenance fee during the six-month grace period following the window to pay the maintenance fee is being mailed to: Director of the United States Patent and Trademark Office, Attn: Maintenance Fee, 2051 Jamieson Avenue, Suite 300, Alexandria, VA 22314; or being transmitted via facsimile to: 571-273-6500.

AUS06022, ALPINE. 098AUS

**CERTIFICATION AND REQUEST
FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN** (Page 2 of 2)

3. FOR PATENTEES WHO NEED TO FILE A PETITION TO ACCEPT A DELAYED MAINTENANCE FEE PAYMENT UNDER 37 CFR 1.378(c):
- The maintenance fee payment was required to have been paid after March 10, 2011.
 - A petition under 37 CFR 1.378(c) (using USPTO form PTO/SB/66 – Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c))) is being promptly filed accompanied by the applicable maintenance fee payment (but not the surcharge under 37 CFR 1.20(i)).
 - The delay in payment of the maintenance fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
 - The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(i) for accepting a delayed maintenance fee payment.
 - It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed by March 11, 2012, in order to be entitled to a waiver of the surcharge under 37 CFR 1.20(i).
 - It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed within twenty-four months from the expiration date of the patent. See 35 U.S.C 41(c).
 - This request and the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) is being submitted via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
4. FOR NONPROVISIONAL PATENT APPLICATIONS FILED WITHOUT AN EXECUTED OATH OR DECLARATION OR PAYMENT OF THE BASIC FILING FEE, SEARCH FEE, AND/OR EXAMINATION FEE:
- The nonprovisional patent application was filed on or after March 11, 2011, and prior to April 12, 2011.
 - The late filing of the oath or declaration or the basic filing fee, search fee, or examination fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
 - The USPTO is requested to *sua sponte* waive the surcharge set forth in 37 CFR 1.16(f) for the late filing of the oath or declaration or basic filing fee, search fee, and/or examination fee.
 - This request, together with the executed oath or declaration or the basic filing fee, search fee, or examination fee, as well as the reply to the Notice to File Missing Parts, is being submitted via EFS-Web or by mail directed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature 	Date April 11, 2011
Name (Print/Typed) Yasuo Muramatsu	Practitioner Registration Number 38,684

Note: Signatures of all the inventors, § 1.41(b) applicants, or assignees of record of the entire interest or their representative(s), or reexamination requesters at the appeal stage are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.

☐ *Total of _____ forms are submitted.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**MURAMATSU & ASSOCIATES
SUITE 310
114 PACIFICA
IRVINE CA 92618**

MAILED

APR 27 2011

OFFICE OF PETITIONS

In re Application of :
Melvin Bernard Diaz :
Application No. 11/640,615 : **DECISION ON PETITION**
Filed: December 18, 2006 :
Attorney Docket No. ALPINE.098AUS :

This is a decision on the request filed April 13, 2011, seeking relief under the provisions of an announcement by the Under Secretary and Director of the United States Patent and Trademark Office on March 17, 2011, http://www.uspto.gov/patents/announce/japan_relief_2011mar17.pdf, providing relief to inventors and patent owners in areas affected by the earthquake and resulting tsunami of March 11, 2011.

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on February 1, 2011. The instant petition was filed prior to the expiration of the period for reply and the certifications for granting of relief are considered to be met by the submission of the request.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This application is being referred to the Technology Center, Art Unit 3667 for re-mailing the Office action of February 1, 2011. The period for reply will run from the mailing date of the Office action.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
1600 TCF TOWER
121 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402

MAILED

AUG 18 2010

OFFICE OF PETITIONS

In re Application :
Norman et al. :
Application No. 11/640,654 :
Filed: December 18, 2006 :
Attorney Docket No. ROUND 3.0-140 :
CONCONDIVCO :

**DECISION ON PETITION
TO WITHDRAW
FROM RECORD**

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed June 30, 2010, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **DISMISSED**.

A review of the file record indicates that Schwegman, Lundberg & Woessner, P.A was not appointed power of attorney in this patent application and was only designated as the correspondence address of record. Therefore, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: ROUND
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK, LLP
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/640,665	12/18/2006	Jacob Lahijani	FL0351USNA	9025
23906 7590 12/21/2010 E I DU PONT DE NEMOURS AND COMPANY LEGAL PATENT RECORDS CENTER BARLEY MILL PLAZA 25/1122B 4417 LANCASTER PIKE WILMINGTON, DE 19805			EXAMINER AUGHENBAUGH, WALTER	
			ART UNIT 1782	PAPER NUMBER
			NOTIFICATION DATE 12/21/2010	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-Legal.PRC@usa.dupont.com



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mailed: 12/21/10
In re application of
Lahijani
Serial No. 11/640,665
Filed: 12/18/2006
For: PIPE PREFORMED LINER COMPRISING
METAL POWDER

wk

DECISION ON
PETITION

This is a decision on a PETITION filed October 25, 2010, which has been accepted as a timely petition under 1.59(b) and MPEP 724.02 and is before the Group Director of Technology Center 1700 for consideration.

DECISION

Petitioner requests that the documents filed October 7, 2010 at 10:39:21 Eastern Time be expunged.

The petition is **GRANTED**.

Section 1.59 has been amended to eliminate references to returning documents that have been expunged to recognize that, with electronic Official files, there will be nothing to return when a paper is expunged.

The Office is capturing electronic images of all documents that form the Official file. Where the image is generated from a physical source document, the originating document may be disposed of once the electronic image accuracy is verified. The paper source document will eventually be destroyed under a United States National Archives and Records Administration (NARA) approved schedule. Therefore, if a document is to be expunged from the record, the only operation that will be required will be removal of the image from the Official file.

Paragraph (a)(1) of §1.59 has been amended by deleting the phrase “and returned” from the first sentence, and deleting the second sentence. Paragraph (b) of §1.59 has been amended by deleting the phrase “and return” from each of the first and second sentences. The Office will continue to provide notice in the Official file that a paper has been expunged and the Office will send a decision to the applicant notifying the applicant that the paper has been expunged.

11/640,665

The images will be removed from the Official file.

/W. GARY JONES/
Director, Technology Center 1700
Chemical and Materials Engineering

Tamera L. Fair
E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON DE 19805



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ALVIN T. ROCKHILL
PATENT ATTORNEY
PO BOX 1283
BATH, OH 44210-1283

MAILED

NOV 10 2010

OFFICE OF PETITIONS

In re Application of	:	
William K. Longcor, IV	:	
Application No. 11/640,689	:	DECISION ON PETITION
Filed: December 18, 2006	:	
Attorney Docket No. FDN-2997	:	

This is a decision on the petition, filed October 5, 2010, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before September 7, 2010, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed June 7, 2010.

Petitioner states that a timely reply was mailed via certificate of transmission by facsimile on September 1, 2010, which included the following papers: Issue Fee Transmittal Part B and authorization to charge petitioners deposit account number 50-1855. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated September 1, 2010, which would have rendered the reply timely if received.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Notice of Allowance, mailed June 7, 2010 is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been transmitted by facsimile on September 1, 2010.

Telephone inquiries concerning this decision should be directed to April M. Wise at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Office of Data Management at their hotline 571-272-4200.

This application is being referred to the Office of Data Management for processing into a patent.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions



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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/640,725	12/18/2006	Joshua Monroe Cobb	SP06-013	7326
22928	7590	11/25/2011	EXAMINER	
CORNING INCORPORATED			SALZMAN, KOURTNEY R	
SP-TI-3-1				
CORNING, NY 14831			ART UNIT	PAPER NUMBER
			1724	
			NOTIFICATION DATE	DELIVERY MODE
			11/25/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usdocket@coming.com



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Alexandria, VA 22313-1450
www.uspto.gov

wk

Mailed:

11/23/2011

In re application of
Cobb et al.

Serial No. 11/640,725

Filed: December 18, 2006

For: **LIGHT COLLECTOR AND CONCENTRATOR**

:
:
: **DECISION ON**
: **PETITION**

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 on March 19, 2011 to withdraw the Finality of the Office Action mailed February 17, 2011. An Appeal Brief was filed on June 16, 2011 and an Examiners Answer was mailed on September 19, 2011.

Applicants assert that the Office has erroneously applied its Restriction Requirement to the specification content rather than to claims election. Applicants are advised that a petition from a final decision of examiner requiring restriction in patent applications should be filed under, 37 CFR 1.144, before the notice of appeal is filed.

Applicants assert that the Office has failed to address independent claim 31 in light of the most recently filed amendments. Applicants also submit that the Office Action erroneous states a number of issues.

Under present practice, second or any subsequent actions on the merits shall be final, except where the Examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims, nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

The Finality was proper.

Under 37 CFR 41.31(a) (1), an applicant for a patent dissatisfied with the primary examiner's decision in the second rejection of his or her claims may appeal to the Board for review of the examiner's rejection by filing a notice of appeal and the required fee set forth in 37 CFR 41.20(b) (1) within the time period provided under 37 CFR 1.134 and 1.136. It is noted that Applicants have done this.

DECISION

The petition is **DENIED**.

/W. GARY JONES/
Director, Technology Center 1700
Chemical and Materials Engineering

Louis S. Horvath
CORNING INCORPORATED
SP-TI-3-1
CORNING NY 14831



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SEP 08 2010

OFFICE OF PETITIONS

PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

In re Patent No. 7,788,261
Issued: August 31, 2010
Application No. 11/640,817
Filed: December 18, 2006
Dkt. No.: 3839.04US01

: DECISION ON PATENT TERM
: ADJUSTMENT and NOTICE OF INTENT
: TO ISSUE CERTIFICATE OF
: CORRECTION
:

This is a decision on the petition filed on September 1, 2010 seeking reconsideration of the decision mailed July 27, 2010 and requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by 179 days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by 179 days is **GRANTED**.

The Office acknowledges the submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **179** days.

Patent No. 7,788,261

Page 2

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,788,261

DATED : August 31, 2010

DRAFT

INVENTOR(S) : Hoeber, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 181 days

Delete the phrase "by 181 days" and insert – by 179 days--



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MARGARET ANDERSON
106 E. 6TH STREET, SUITE 900
AUSTIN TX 78701

MAILED

MAR 02 2011

OFFICE OF PETITIONS

In re Application of	:	
Levien et al.	:	
Application No. 11/640,836	:	DECISION ON PETITION
Filed: December 18, 2006	:	TO WITHDRAW
Attorney Docket No. QQ1-0030US	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 24, 2011.

The request is **NOT APPROVED**.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71*, or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

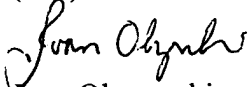
An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.

According to a review of current USPTO records petitioner has not requested the address be changed to a properly recorded assignee or the first listed inventor. The Customer Number 55922 is neither the first named inventor nor the assignee who properly became of record under 37 CFR 3.71. As such, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Further, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Currently, there is an outstanding Office action mailed September 16, 2010 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.



Joan Olszewski
Petitions Examiner
Office of Petitions

cc: LEE & HAYES, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-23-10

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction for Appl. No.: 11640920 Patent No.: 7710621

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (C of C)
Randolph Square – 9D10-E
Palm Location 7580**

Omega Lewis
Certificates of Correction Branch
703-756-1575

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not apply.**

☐ **Denied**

State the reasons for denial below.

Comments: ok to enter

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-23-10

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction for Appl. No.: 11640920 Patent No.: 7710621

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square – 9D10-E
Palm Location 7580

Omega Lewis
Certificates of Correction Branch
703-756-1575

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not apply.**

☐ **Denied**

State the reasons for denial below.

Comments: _____

/Edward L. Coles Sr

SPE

2625

Art Unit



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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

MAILED

AUG 04 2010

In re Application of	:	OFFICE OF PETITIONS
Yoshihisa Tanikawa, et al.	:	
Application No. 11/640,921	:	DECISION ON PETITION
Filed: December 19, 2006	:	
Attorney Docket No. 042962-0359091	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 12, 2010, to revive the above-identified application.


The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 26, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed February 26, 2010. Accordingly, the date of abandonment of this application is May 27, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$1510 and the publication fee of \$300, (2) the petition fee of \$1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

This application is being referred to the Office of Data Management for processing into a patent.


April M. Wise
Petitions Examiner
Office of Petitions



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United States Patent and Trademark Office
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ZILKA-KOTAB, PC
PO BOX 721120
SAN JOSE, CA 95172-1120

MAILED

MAR 29 2011

OFFICE OF PETITIONS

In re Application of

Dmitry Gryaznov

Application No. 11/641,043

Filed: December 19, 2006

Attorney Docket No. NAI1P678/06.074.01

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 24, 2011.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Zilka-Kotab, PC has been revoked by the assignee of the patent application on March 2, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/641,046	12/19/2006	Bruce Bent	049212-0115	7523
22428 7590 11/05/2010 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			EXAMINER PATEL, JAGDISH	
			ART UNIT 3693	PAPER NUMBER
			MAIL DATE 11/05/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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NOV - 5 2010

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:	
Bruce BENT et al.	:	DECISION ON PETITION
Application No. 11/641,046	:	TO EXPUNGE FILED
Filed: December 19, 2006	:	UNDER 37 CFR 1.59(b)
For: SYSTEM AND METHOD FOR INVESTING	:	
PUBLIC DEPOSITS	:	


This is a decision on the petition under 37 CFR 1.59(b), filed October 12, 2010, to expunge information from the above identified application.

The decision on the petition will be held in abeyance until allowance of the application or mailing of an Ex parte Quayle action or a Notice of Abandonment, at which time the petition will be decided.

Petitioner requests that the propriety information disclosure statement (PIDS) filed October 12, 2010 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material, the information will be removed from the official file.



Wynn W. Coggins, Director
Patent Technology Center 3600
(571) 272-5350

lm: 11/2/10

LM



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JUN - 7 2011

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of BENT et al.

Appl. No.: 11/641,046

Filed: 12/19/06

For: SYSTEM AND METHOD FOR INVESTING
PUBLIC DEPOSITS

:
:
: **RESPONSE TO PETITION**
: **UNDER 37 CFR 1.59**
:
:

This is a decision on the petitions under 37 CFR 1.59(b), filed 10/12/10, and 4/1/11 to expunge information from the above identified application. Petitioner requests that documents Nos. CD1 through CD88 submitted in the Information Disclosure Statement (IDS) filed on 10/12/10 and documents Nos. CD69 through CD71 submitted in the IDS submitted on 8/20/10 be expunged from the record.

The petitions are **GRANTED**.

A petition under 37 CFR 1.59(b) must contain:

- (A) a clear identification of the information to be expunged without disclosure of the details thereof;
- (B) a clear statement that the information to be expunged is trade secret material, proprietary material, and/or subject to a protective order, and that the Information has not been otherwise made public;
- (C) a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
- (D) a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information;
- (E) the fee as set forth in 37 CFR 1.17(g) for a petition under 37 CFR 1.59(b)


The information in question has been determined by the undersigned to not be material to the examination of the instant application.

As the above conditions have been met, the requested material has been expunged. However, the material will not be returned to the applicants. The obligation to return documents was removed from 37 CFR 1.59 (June 30, 2003 Fed Register, Vol. 68, No. 125, 38613). The documents have

been closed from the IFW record so as not to be viewable by non-PTO personnel. This decision only applies to this application, and any other applications containing the proprietary information will need to be separately decided.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

Any questions regarding this decision should be directed James Kramer at (571) 272-6783.



Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

JAK: 6/2/11

LM



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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED

OCT 08 2010

In re Application of
Krzyzanowski, et al.
Application No. 11/641,101
Filed: December 19, 2006
Attorney Docket No. 2100.0180000

OFFICE OF PETITIONS
ON PETITION

This is a decision on renewed petition, filed July 22, 2010, under CFR 1.183, requesting waiver of 37 CFR 1.63 and 1.67, which requires all of the joint inventors to execute a supplemental declaration.

The petition under 37 CFR 1.183 to waive 37 CFR 1.63 and 1.67 is **GRANTED**.

Petitioner has established that Mr. Flores either refuses to execute a supplemental declaration or cannot be located after diligent search. In view thereof, it is agreed that justice would be served by waiving the requirement for his signature on the supplemental declaration filed with the present renewed petition. It is noted that the other joint inventor, Mr. Krzyzanowski, has executed the supplemental declaration and it contains his and Mr. Flores' full information.

The aforementioned supplemental declaration has been accepted, on petition, and placed in the file.

This application is being forwarded to Technology Center G.A.U. 2193 for consideration of the Request for Continue Examination, filed March 24, 2010.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions



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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/641,102	12/19/2006	Leonard Silverstein	9396.002.00	7073
7590 01/21/2011 MCKENNA LONG & ALDRIDGE LLP 1900 K STREET, NW WASHINGTON, DC 20006			EXAMINER HWU, DAVIS D	
			ART UNIT 3752	PAPER NUMBER
			MAIL DATE 01/21/2011	DELIVERY MODE PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)
The declaration of express abandonment will not be recognized

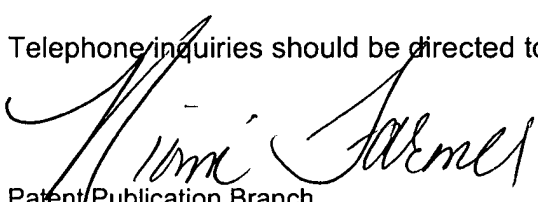
This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

- ☒ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
- ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
- ☐ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
- ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.


Patent Publication Branch
Office of Data Management



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EXXONMOBIL RESEARCH & ENGINEERING COMPANY
P.O. BOX 900
1545 ROUTE 22 EAST
ANNANDALE NJ 08801-0900

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Application of :
Bangaru et al. :
Application No. 11/641,221 :
Filed: December 19, 2006 :
Attorney Docket No. P2003J039-US4 :

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 27, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the \$1510.00 issue fee and the \$300.00 publication fee, (2) the petition fee of \$1620.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

THORPE NORTH & WESTERN, LLP.
P.O. Box 1219
SANDY UT 84091-1219

MAILED

NOV 02 2011

OFFICE OF PETITIONS

In re Application of :
Dennis PEARLSTEIN : **ON PETITION**
Application No. 11/641,274 :
Filed: December 18, 2006 :
Atty. Docket No.: **02270-25186**

This is a decision on the petition under 37 CFR 1.137(b), filed October 21, 2011, with a certificate of mailing dated October 21, 2011, to revive the above-identified application.

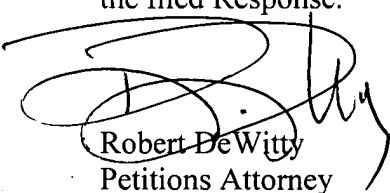
The petition is **GRANTED**.

The application became abandoned for failure to respond in a timely manner to the non-final Office action mailed December 20, 2010 (Office action), which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application became abandoned March 21, 2011. A Notice of Abandonment was mailed July 11, 2011.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Response to the Office action mailed December 20, 2010, (2) a petition fee of \$930, and (3) a statement of unintentional delay. The reply to the Office action is accepted as having been unintentionally delayed.

Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

The application will be referred to Technology Center Art Unit 3723 for consideration of the filed Response.


Robert DeWitty
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Date Mailed : November 18, 2010
Serial No. : 11/1641426
Patent No. : 7,565,767 B2
Patent Issued : July 28, 2009
Inventor(s) : Brian L. Andersen, et al. :
Title : POTATO DRIP IRRIGATION SYSTEM

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent.

Respecting the alleged error noted in your request, the changes aren't clear since the data you want changed is the same.

In view of the foregoing your request is hereby denied.

Further consideration will be given your request upon receipt of a new request stating the appropriate changes you wish the office to correct.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions and Certificate
Of Correction Branch
(571)272-0423
FAX 571-270-9942

Keith D. Grzelak
Wells St. John P.S
601 West First Avenue, Ste. 1300
Spokane, WA 99201-3828

MD/mt



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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/641,468	12/18/2006	Shakeel Ur-Rehman	50175-P001P1	9274
61060	7590	05/12/2011	EXAMINER	
WINSTEAD PC			WONG, LESLIE A	
P.O. BOX 50784			ART UNIT	
DALLAS, TX 75201			PAPER NUMBER	
			1789	
			MAIL DATE	
			DELIVERY MODE	
			05/12/2011	
			PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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5/12/2011

In re application of
Shakeel Ur-Rehman et al
Serial No. 11/641,468
Filed: December 18, 2006
For: DAIRY COMPOSITION AND
METHOD OF MAKING

DECISION ON PETITION

This is a decision on the PETITION UNDER 37 C.F.R. 1.181, filed March 28, 2011 requesting indication that Applicant's Suggestion for Interference under 37 C.F.R. 41.202 filed on October 15, 2010 has been considered.

37 CFR 41.203 defines the existence of an interference as the following: if subject matter of a claim of one party would, if prior art, have anticipated or rendered obvious the subject matter of a claim of the opposing party and vice versa.

Claim 7 of the present application requires:

A method for making a dairy composition comprising the steps of:

passing milk into a filtration apparatus in a unidirectional flow;

subjecting the milk to an ultrafiltration step to produce an ultrafiltration permeate fraction and a ultrafiltration retentate fraction;

subjecting the ultrafiltration permeate to a nanofiltration step to produce a nanofiltration permeate fraction and a nanofiltration retentate fraction;

subjecting the nanofiltration permeate to a reverse osmosis step to produce a reverse osmosis permeate fraction and a reverse osmosis retentate fraction;

mixing one or more permeate and retentate fractions to form a mixture; and

treating the mixture with lactase enzyme. (emphasis added)

Claim 18 of application 10/513,742 (now claim 1 of US patent 7,829,130) requires:

Application No. 11/641,468

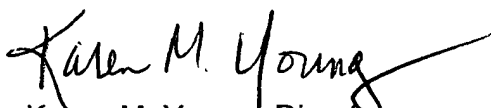
A process for producing a lactose-free milk product, having a ratio of protein to carbohydrates of about 1, comprising the steps of

- a) ultrafiltering milk to obtain a final UF retentate and UF permeate,
- b) nanofiltering the UF permeate obtained from the ultrafiltration of step a) to obtain an NF retentate and NF permeate,
- c) concentrating the NF permeate obtained in step b) by reverse osmosis to obtain an RO retentate and RO permeate,
- d) **adding the RO retentate obtained in step c) as a salt directly to the final UF retentate of step a) to produce a milk base, and**
- e) hydrolyzing lactose in the milk base product by means of lactase to produce a lactose-free milk product. (emphasis added)

In the present application, the examiner has interpreted the phrase "mixing one or more permeate and retentate fractions to form a mixture" as requiring both a permeate and a retentate fraction. See the communication of April 28, 2011. However, in the Comments of Statements of Reasons for Allowance of May 3, 2011, applicant has taken the position that the phrase "mixing one or more permeate and retentate fractions to form a mixture" includes either permeate fractions alone, retentate fractions alone or both permeate and retentate fractions together.

In view of applicant's interpretation of the phrase, "mixing one or more permeate and retentate fractions to form a mixture", it appears that the subject matter of the present application would, if prior art, have anticipated or rendered obvious the subject matter of US patent 7,829,130, and the subject matter of patent 7,829,130 would, if prior art, have anticipated or rendered obvious the subject matter of the present application. Accordingly, the present application will be withdrawn from issue, and forwarded to the Board of Patent Appeals and Interferences for consideration of a Declaration of Interference.

The petition is **GRANTED**


Karen M. Young, Director
Technology Center 1700
Chemical and Materials Engineering

CST



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P.O. Box 1450
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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

MAILED
DEC 07 2010
OFFICE OF PETITIONS

In re Application of
Yoshihiro CHOSOKABE
Application No. 11/641,554
Filed: December 19, 2006
Attorney Docket No. **SONYJP 3.0-1279**

:
:
: DECISION GRANTING PETITION
: UNDER 37 CFR 1.313(c)(2)
:

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 6, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 3, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.



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**LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090**

MAILED

APR 11 2011

OFFICE OF PETITIONS

In re Application of :
Yoshihiro CHOSOKABE :
Application No. 11/641,554 : **DECISION GRANTING PETITION**
Filed: December 19, 2006 : **UNDER 37 CFR 1.313(c)(2)**
Attorney Docket No. **SONYJP 3.0-1279** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 5, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 23, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/641,570	12/18/2006	Hiroyuki Yasuta	6639P279	9986

7590 10/18/2010
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

EXAMINER

HAROLD, JEFFEREY F

ART UNIT	PAPER NUMBER
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2422

MAIL DATE	DELIVERY MODE
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10/18/2010

PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Mimi Farnes

Patent Publication Branch
Office of Data Management

RECEIVED
10/18/2010
12/18/2006
11/641,570

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10/18/2010
12/18/2006
11/641,570



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Thomas J. Perkowski , Esq., P. C.
22 Thorndal Circle
Darien CT 06820

MAILED

OCT 07 2010

OFFICE OF PETITIONS

In re Application of

Datig

Application No. 11/641,606

Filed: December 19, 2006

Attorney Docket No. 103-005USANA0

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 2, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 27, 2009, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on May 28, 2009. A Notice of Abandonment was mailed on October 9, 2010.

The amendment filed September 2, 2010, is noted.

The request for the extension of time within the third month filed September 2, 2010, is noted but cannot be granted as the request was made outside the maximum statutory period for reply to the non-final Office action. The amount of \$555.00 will be refunded, in due course.

The application is being forwarded to Technology Center GAU 2129 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



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Furman Gregory Deptula
215 Main Street
Suite 101
Biddeford ME 04005

MAILED
JAN 28 2011
OFFICE OF PETITIONS

In re Application of :
GEORGOPAPADAKOU et al. :
Application No. 11/641,615 : DECISION ON PETITION
Filed: 12/19/2006 :
Attorney Docket No. MET-037US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 15, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed May 13, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 14, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 1627 for appropriate action by the Examiner on the reply received on December 15, 2010.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell
Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



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WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
500 W. MADISON STREET, SUITE 3800
CHICAGO IL 60661

MAILED
JAN 31 2011
OFFICE OF PETITIONS

In re Application of :
GEORGOPAPADAKOU et al. :
Application No. 11/641,615 : CORRECTED DECISION ON PETITION
Filed: 12/19/2006 :
Attorney Docket No. MET-037US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 15, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed May 13, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 14, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

The Office acknowledges the revocation of power of attorney, appointment of new power of attorney, and change of correspondence address submitted on January 28, 2011.

This application is being referred to Technology Center AU 1627 for appropriate action by the Examiner on the reply received on December 15, 2010.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/641,615	12/19/2006	Nafsika Georgopapadakou	MET-037US1

CONFIRMATION NO. 7971

POA ACCEPTANCE LETTER



32116
WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
500 W. MADISON STREET
SUITE 3800
CHICAGO, IL 60661

Date Mailed: 01/31/2011

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/28/2011.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/ctdonnell/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101



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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/641,615	12/19/2006	Nafsika Georgopapadakou	MET-037US1

CONFIRMATION NO. 7971

POWER OF ATTORNEY NOTICE



32254
Furman Gregory Deptula
215 Main Street
Suite 101
Biddeford, ME 04005

Date Mailed: 01/31/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/28/2011.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/ctdonnell/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101



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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED
OCT 22 2010
OFFICE OF PETITIONS

In re Application of :
Kenji Yoshida, et al. :
Application No. 11/641,825 : DECISION GRANTING PETITION
Filed: December 20, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 04329.4070 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, October 22, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 17, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2186 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.



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EI DU PONT NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON DE 19805

MAILED
NOV 05 2010
OFFICE OF PETITIONS

In re Application of
Linda Jane SOLOMON, et al
Application No. 11/641,981
Filed: December 19, 2006
Attorney Docket No. CL3005USNA

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed, October 1, 2010, to change the name of inventor "Linda Jane Decarolis" to – Linda Jane Solomon --.

The petition is **GRANTED**.


Office records have been updated to reflect the inventor's change of name. A corrected Filing Receipt, which reflects the inventor's change of name, accompanies this decision on petition.

The petition filed October 1, 2010, was accompanied by the proper fee under 37 CFR 1.182.

Any questions concerning this matter may be directed to Diane Goodwyn at (571) 272-6735.

Any questions concerning the examination or status of the application should be directed to the Technology Center at (571) 272-1600.

This matter is being referred to Technology Center AU 1639 for further processing.


Thurman K. Page
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt



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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
11/641,981	12/19/2006	1639	1130	CL3005USNA	15	1

CONFIRMATION NO. 9097

CORRECTED FILING RECEIPT



OC000000044167643

23906

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

Date Mailed: 10/25/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Linda Jane Solomon, Wilmington, DE;
Stephen R. Fahnestock, Wilmington, DE;
Pierre E. Rouviere, Wilmington, DE;
Hong Wang, Kennett Square, PA;

Power of Attorney: The patent practitioners associated with Customer Number 23906

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/852,841 10/19/2006

Foreign Applications

If Required, Foreign Filing License Granted: 10/22/2010

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/641,981**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Identification of peptide tags for the production of insoluble peptides by sequence scanning

Preliminary Class

506

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER**Title 35, United States Code, Section 184****Title 37, Code of Federal Regulations, 5.11 & 5.15****GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).



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MORGAN LAW OFFICES, PLC
4635 S. LAKESHORE DR. SUITE 131
TEMPE AZ 85282

MAILED

MAR 23 2011

OFFICE OF PETITIONS

In re Application of :
Daniel Lloyd Hodges :
Application Number: 11/642,032 : DECISION ON PETITION
Filing Date: 12/18/2006 :
Attorney Docket Number: POD287 :
:

This is a decision on the petition filed on February 3, 2011,
under 37 CFR 1.137(b), to revive the above-identified
application.

The petition is **GRANTED**.

This application became abandoned on October 6, 2009, for failure
to submit a timely and proper response to the Office action
mailed in accordance with Ex parte Quayle¹ mailed on August 5,
2009, which set a two (2) month shortened statutory period for
reply. No extensions of time in accordance with 37 CFR 1.136(a)
were obtained. Notice of Abandonment was mailed on February 22,
2010.

Petitioner's reply filed on February 3, 2011, has been deemed to
place this case in condition for allowance.

The application file is being referred to Technology Center Art
Unit 2612 for further processing.

Telephone inquiries concerning this matter may be directed to the
undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

¹ 1935 C.D. 11, 453 OG. 213.



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VAN DYKE, GARDNER, LINN & BURKHART, LLP
SUITE 207
2851 CHARLEVOIX DRIVE, S.E.
GRAND RAPIDS MI 49546

MAILED

DEC 27 2010

OFFICE OF PETITIONS

In re Application of :
Guy Lemire, et al. :
Application No. 11/642,047 : DECISION GRANTING PETITION
Filed: December 19, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. STR03B P-102C :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, December 23, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 20, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3673 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.



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SUITE 207
2851 CHARLEVOIX DRIVE, S.E.
GRAND RAPIDS MI 49546

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APR 25 2011

OFFICE OF PETITIONS

In re Application of	:
Lemire et al.	: DECISION ON PETITIONS
Application No. 11/642,047	: UNDER 37 CFR 1.78(a)(3)
Filed: December 19, 2006	: AND 37 CFR 1.78(a)(6)
Attorney Docket No. STR03B P-102C	: AND 37 CFR 1.48(a)

This is a decision on the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), filed January 24, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the Application Data Sheet (ADS) filed concurrently with the instant petition. This is also a decision on the petition under 37 CFR 1.48(a) to amend the inventive entity by the addition of David T. Becker, Christopher J. Hopper, Michael J. Hayes and Richard C. Mayoras, Jr. filed concurrently.

The petitions under 37 CFR 1.78(a)(3) and 1.78(a)(6) are **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

- (1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant petition does not comply with items (1) and (3) above.

The instant petition does not comply with item (1) above with regards to nonprovisional Application No. 11/557,349 and provisional Application No. 60/734,083 since there are no common inventors with the instant application. As discussed in MPEP 201.11, the later-filed applications must be filed by an inventor or inventors named in the prior-filed application for a benefit claim under 35 U.S.C. §§ 120 and 119(e). There are no common inventors in the instant application and Application Nos. 11/557,349 and 60/734,083, due to the 37 CFR 1.48 petition being dismissed (see below).

The amendment submitted concurrently with the instant petition as drafted is unacceptable and, therefore, is not considered a proper reference under 36 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the instant petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority) must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject, inquiry or order must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Further, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. However, the Office will accept the priority claims as shown in the Application Data Sheet (ADS), filed January 24, 2011, when a proper petition under 37 CFR 1.78 has been submitted.

With respect to item (3), petitioner has submitted an improper unintentional delay statement. 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) require a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional.

Accordingly, before the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), correcting the above matters, is required. No further petition fee is necessary.

The petition under 37 CFR 1.48(a) is **DISMISSED**.

A grantable petition under 37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

- (1) A request to correct the inventorship that sets forth the desired inventorship change;
- (2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
- (3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
- (4) The processing fee set forth in § 1.17(i); and
- (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b)).

The request under 37 CFR 1.48(a) lacks compliance with item (3), since an oath or declaration by all the actual inventors as required by § 1.63 has not been submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: Customer Window located at:
U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions



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E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON DE 19805

In re Application of
Barbara Klimowicz O'Rourke
Application No. 11/642,070
Filed: December 20, 2006
Attorney Docket No.: TK3955USCIP

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 14, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply to the final Office action mailed June 15, 2010, which set a three (3) month shortened statutory period for reply. The response filed August 12, 2010 did not place the application in condition for allowance. An advisory action was mailed December 10, 2010. Accordingly, this application is abandoned. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The Notice of Appeal filed January 14, 2011 has been entered and made of record. Accordingly, the two (2)-month period for filing the Appeal Brief, accompanied by the fee required by law, runs from the date of this decision.

The application is being forwarded to Technology Center 3635 for processing of the Notice of Appeal.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/26/10TO SPE OF : ART UNIT 1761SUBJECT : Request for Certificate of Correction for Appl. No.: 11642107 Patent No.: 7767760

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

Lamonte Newsome
Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**Specify below which changes **do not** apply.☐ **Denied**

State the reasons for denial below.

Comments: _____

[Signature]
SPE

1761
Art Unit



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KNOBBE, MARTENS, OLSON & BEAR LLP
2040 MAIN STREET
14TH FLOOR
IRVINE, CA 92614

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OFFICE OF PETITIONS

In re Application of :
MICHAEL A. TODD :
Application No. 11/642,167 : **ON PETITION**
Filed: December 20, 2006 :
Attorney Docket No. ASMEX.367DV1 :

This is a decision on the petition under 37 CFR 1.181(a)(3), 1.182 and/or 1.183, which was filed June 4, 2010. The petition is being considered under 37 CFR 1.181, as a petition to invoke the supervisory authority of the Director.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application had final rejection issued May 7, 2009. Petitioner filed on June 5, 2009, a response to the final rejection. No advisory action before the 6 month statutory deadline of October 7, 2009 was issued by the examiner. However, on September 18, 2009 petitioner conducted an interview with the examiner, there was no indication that the response filed June 5, 2009, placed the application in condition for allowance. On October 6, 2009, petitioner paid a 3 month extension of time and filed an Request for Continuing Examination (RCE). Petitioner now request refund of the fees for the RCE and the 3-month extension of time. Petitioner states that the RCE was needed because the examiner failed to determine if petitioner's reply after final rejection placed the application in condition for allowance.

The failure to properly reply under 37 CFR 1.113 to a final rejection results in abandonment. A reply under 37 CFR 1.113 is limited to an amendment complying with 37 CFR 1.116; a Notice of Appeal (and appeal fee); or a request for continued examination (RCE) filed under 37 CFR 1.114 with submission and the fee set forth in 37 CFR 1.17(e). Here, a review of the record indicated

that on September 18, 2009, petitioner knew that the reply submitted June 5, 2009, did not place the case in condition for allowance. Petitioner knew that the application was in rejected status, with a statutory time period set to expire. The failure of the examiner to mail an advisory does not excuse petitioner's required and proper response to the final rejection. There is nothing of record in the file to indicate that the examiner intended to withdraw the final rejection, and allow the application, nor did the examiner do so prior to the expiration of the statutory time period ending October 7, 2009. Since the final rejection has not been withdrawn, it would be the responsibility of the petitioner to prosecute the application, even in the absence of receipt of an advisory. Since the RCE was necessary to maintain the application in pending status, no refund will be given.

For the above reasons the petition is **dismissed**.

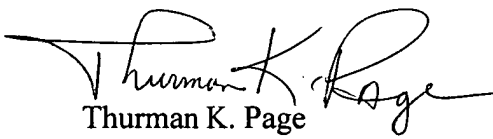
Any renewed petition may be addressed as follows:

By mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By fax: (571) 273-8300
 ATTN: Office of Petitions

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-0602.


Thurman K. Page
Petitions Examiner
Office of Petitions



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HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

Mail Date: 08/04/2010

Applicant	: Andrew Ballantyne	: DECISION ON REQUEST FOR
Patent Number	: 7646731	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/642,175	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/19/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **406** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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Suite 310
114 Pacifica
Irvine CA 92618

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JAN 24 2011

OFFICE OF PETITIONS

In re Application of :
Diaz et al. :
Application No. 11/642,206 : **DECISION ON PETITION**
Filed: December 20, 2006 :
Attorney Docket No. ALPINE.099AUS :

This is a decision on the petition, filed November 22, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to file a proper reply to the final Office action of November 17, 2009, which set a three (3) month shortened statutory period for reply. A reply was due on or before February 17, 2010. A Notice of Abandonment was mailed October 5, 2010.

Petitioner contends that in response to the final Office action a request for continued examination (RCE) along with the prescribed fee were submitted with a certificate of mailing dated February 17, 2010.

Petitioner's argument is persuasive. A review of the record confirms that a RCE, \$810 fee and the submission required by 37 CFR 1.114 were submitted on March 2, 2010 with a certificate of mailing dated February 17, 2010.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center AU 3664 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment previously submitted in accordance with 37 CFR 1.114.

Charlema Grant
Petitions Attorney
Office of Petitions



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FIFTH THIRD CENTER
ONE SOUTH MAIN STREET
SUITE 1300
DAYTON, OH 45402

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SEP 29 2010

OFFICE OF PETITIONS

In re Application of :
Mario Curcio :
Application No.: 11/642,242 :
Filed: December 20, 2006 :
Attorney Docket No.: ROH 0012 PA/33510.21/WP23 :

ON PETITION

This is a decision on the petition, filed September 28, 2010, which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 25, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1795 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
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COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

9/27/2016

Patent No. : 7773887
Inventor(s) : Jae-Hoon Lee et al.
Issued : 8/10/2010
Title : SINGLE WAVELENGTH BI-DIRECTIONAL ROF LINK APPARATUS
FOR SIGNAL TRANSMISSION IN TDD WIRELESS SYSTEM
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals item [22] is printed in accordance with the record please show evidence of supporting data. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.
Future written correspondence concerning this matter should be filed and directed to
Decisions & Certificates of Correction Branch.

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

Gregory E. Montone, Esq.
Antonelli, Terry, Stout & Kraus LLP
1300 North Seventeen Street
Suite 1800
Arlington, VA 22209

HR



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INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 08/04/2010

Applicant	: Vinodh Gopal	: DECISION ON REQUEST FOR
Patent Number	: 7664915	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/642,315	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/19/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **486** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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FSP LLC
P.O. BOX 890
VANCOUVER WA 98666

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NOV 15 2010
OFFICE OF PETITIONS

In re Application of
Edward FLINCHEM
Application No. 11/642,323
Filed: December 20, 2006
Attorney Docket No. FSP0371

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 14, 2010, to revive the above-identified application.


The petition under 37 CFR 1.137(b) is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed March 10, 2010, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 11, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of \$810.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of March 11, 2010 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 2618 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.


Michelle R. Eason
Petitions Examiner
Office of Petitions



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/642,429	12/20/2006	Christopher Arcona	0131.0027US1 (F-4419)	1270
29127 7590 HOUSTON ELISEEVA 420 BEDFORD ST SUITE 155 LEXINGTON, MA 02420			EXAMINER RISIC, ABIGAIL ANNE	
			ART UNIT 3671	PAPER NUMBER
			MAIL DATE 09/13/2011	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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SEP 18 2011

Houston Eliseeva
420 Bedford St
Suite 115
Lexington, MA 02420

In re Application of: : **DECISION ON PETITION**
Christopher Arcona et al. : **UNDER 37 CFR 1.181**
Application No. 11/642,429 :
Filed: December 20, 2006 :
Attorney Docket No.: 01310.0027US1 (F-1449) :
For: ROADWAY GRINDING/CUTTING :
APPARATUS AND MONITORING SYSTEM :

This is in response to applicants' petition under 37 CFR 1.181 filed July 22, 2011 requesting withdrawal of the finality of the Office action mailed May 23, 2011 as being premature.

The Petition is **DISMISSED**.

Applicant alleges that the final rejection mailed May 23, 2011 is premature because the reference to Simmons (U.S. Patent No. 4,896,995), that the examiner relies upon to teach the newly added limitations to the claims, allegedly does not show the features that the examiner states in the rejection of the claims. Applicant argues that since Simmons does not even mention the fact that each blade is a grinding wheel, a new ground for rejection that involves this reference could not have been necessitated by applicants' amendment of the claims. Nor is the new ground for rejection based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p)

Applicant admits in paragraphs 1-3 on page 2 of the petition that the claims were amended to include new limitations in the amendment filed March 8, 2011 and that the claims were subsequently rejected with art previously applied with the addition of the Simmons reference in the final rejection mailed May 23, 2011. What follows in the petition is a discussion of the merits of this new rejection which amounts to a difference of opinion on how the reference is being applied and what it may or may not teach one skilled in the art.

This petition is being DISMISSED for this reason, since the question of whether the rejection is proper is an appealable matter and not proper for petition, see MPEP 1201 which states: "The United States Patent and Trademark Office (Office) in administering the Patent Laws makes many decisions of a substantive nature which the applicant may feel deny him or

her the patent protection to which he or she is entitled. The differences of opinion on such matters can be justly resolved only by prescribing and following judicial procedures. Where the differences of opinion concern the denial of patent claims because of prior art or other patentability issues, the questions thereby raised are said to relate to the merits, and appeal procedure within the Office and to the courts has long been provided by statute (35 U.S.C. 134).

The line of demarcation between appealable matters for the Board of Patent Appeals and Interferences (Board) and petitionable matters for the Director of the U.S. Patent and Trademark Office (Director) should be carefully observed. The Board will not ordinarily hear a question that should be decided by the Director on petition, and the Director will not ordinarily entertain a petition where the question presented is a matter appealable to the Board.”

The application is being forwarded to the examiner for consideration of the after final amendment filed July 22, 2011.

Any questions related to this decision should be directed to Supervisory Patent Examiner Thomas Will at (571) 272-6998.



Dave Talbot, Director
Patent Technology Center 3600
(540) 272-5150

tbw/lm: 8/25/2011

lm



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/642,814	12/20/2006	Cai-Zhong Jiang	MBI-0054-2DIV	2853
7590 09/27/2010 MENDEL 2 C/O MOFO SF 425 MARKET STREET SAN FRANCISCO, CA 94105			EXAMINER BAUM, STUART F	
			ART UNIT	PAPER NUMBER
			1638	
			MAIL DATE	DELIVERY MODE
			09/27/2010	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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September 24, 2010

MENDEL 2 C/O MOFO SF
425 MARKET STREET
SAN FRANCISCO CA 94105

In re Application of	:	
Cai-Zhong Jiang, et al	:	DECISION ON PETITION
Application No. 11642814	:	
Filed: 12/20/2006	:	ACCEPTANCE OF COLOR
Attorney Docket No. MBI-0054-2DIV	:	DRAWINGS

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R. 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) December 20, 2006.

The petition is **GRANTED**.

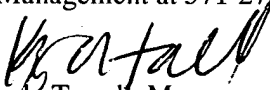
A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings.

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquiries relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.


Kimberly Terrell, Manager
Office of Data Management
Publications Branch



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MORRIS MANNING MARTIN LLP
3343 PEACHTREE ROAD, NE
1600 ATLANTA FINANCIAL CENTER
ATLANTA GA 30326

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Ping-Chen Wu	:	
Application No. 11/642,836	:	DECISION ON PETITION
Filed: December 21, 2006	:	
Attorney Docket No. 98730-	:	
000259/US	:	

This is a decision on the petition, filed August 5, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the non-final Office action mailed November 30, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on July 23, 2010.

Petitioner asserts that the Office action dated November 30, 2009 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

- (1) A statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
- (2) Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received.
- (3) A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the **master docket report** showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question. See MPEP §711.03(c)(I)(A)

The petition fails to satisfy item (3) of the above-stated requirements.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an “unintentionally” abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was “unavoidable.” This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An “unintentional” petition under 37 CFR 1.137(b) must be accompanied by the \$1,620 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail:

Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

A handwritten signature in black ink, reading "Ramesh Krishnamurthy". The signature is fluid and cursive, with the first letter of each word being capitalized and prominent.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions



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3343 PEACHTREE ROAD, NE
1600 ATLANTA FINANCIAL CENTER
ATLANTA GA 30326

MAILED
MAR 29 2011
OFFICE OF PETITIONS

In re Application of :
Ping-Chen Wu :
Application No. 11/642,836 : DECISION ON PETITION
Filed: December 21, 2006 :
Attorney Docket No. **98730-000259/US** :

This is a decision on the renewed petition, filed February 7, 2011, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed November 30, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on July 23, 2010.

Petitioner asserts that the Office action dated November 30, 2009 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

- (1) A statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
- (2) Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received.

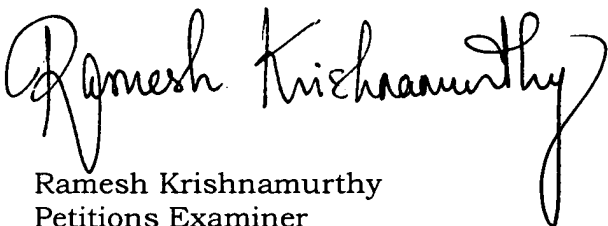
- (3) A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question. See MPEP §711.03(c)(I)(A)

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993). The instant renewed petition satisfies the above stated requirements.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center AU 3627 technical support staff for **re-mailing** the non-final Office action of November 30, 2009. The period for reply will run from the mailing date of the Office action.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.



Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions



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THE FIRM OF HUESCHEN AND SAGE
SEVENTH FLOOR, KALAMAZOO BUILDING
107 WEST MICHIGAN AVENUE
KALAMAZOO MI 49007

MAILED

NOV 19 2010

In re Application of
Benatar, et al.
Application No. 11/642,899
Filed: December 20, 2006
Atty. Dkt. No.: SERVIER 511

:
: **OFFICE OF PETITIONS**
: DECISION ON PETITION
:
:
:

This decision is in response to the petition under 37 CFR 1.137(b), filed October 4, 2010.

The petition is **GRANTED**.

The application became abandoned July 31, 2009 for failure to timely submit a proper reply to the non-final Office action mailed April 30, 2009. The non-final Office action set a three month shortened statutory period of time for reply. No petition for extension of time under 37 CFR 1.136(a) was timely filed. Notice of Abandonment was mailed July 14, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been carefully reviewed and found in compliance with the requirements set forth above.

This application is being forwarded to Group Art Unit 1614 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions



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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

Mail Date: 08/02/2010

Applicant	: Paul Hodgins	: DECISION ON REQUEST FOR
Patent Number	: RE41091	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/642,941	: OF WYETH
Filed	: 12/20/2006	:
		:

The Patentee's Request for Recalculation is **DISMISSED**.

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A) concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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PERKINS COIE LLP
P.O. BOX 1208
SEATTLE WA 98111-1208

MAILED

JUN 01 2011

OFFICE OF PETITIONS

In re Application of :
Bradley W. Dietrich et al. :
Application No. 11/643,018 : DECISION ON PETITION
Filed: December 19, 2006 :
Attorney Docket No. 62945-8001.US01 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 3, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 28, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 29, 2009. A Notice of Abandonment was mailed on April 30, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of \$810 and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2444 for appropriate action by the Examiner in the normal course of business on the reply received May 3, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: John Stattler
Stattler Suh PC
60 South Market Street, Suite 480
San Jose, CA 95113



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**PERKINS COIE LLP
P.O. BOX 1208
SEATTLE WA 98111-1208**

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SEP 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Anthony SIRESS, et al	:	
Application No. 11/643,064	:	DECISION ON PETITION
Filed: December 20, 2006	:	TO WITHDRAW
Attorney Docket No. 57233-8001.US02	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 20, 2010.

The request is **NOT APPROVED**.

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because no correspondence address has been provided for future communications from the Office.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

/dcg/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions



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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/643,178	12/21/2006	Ronald L. James	GP-306666-FCAR-CHE	3969
65798 7590 10/18/2010 MILLER IP GROUP, PLC GENERAL MOTORS CORPORATION 42690 WOODWARD AVENUE SUITE 200 BLOOMFIELD HILLS, MI 48304			EXAMINER WALKER, KEITH D	
			ART UNIT	PAPER NUMBER
			1726	
			MAIL DATE	DELIVERY MODE
			10/18/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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wk

Mailed :
In re Application of
James
Serial No. 11/643,178
Filed: December 21, 2006
For: Non-Functional Fuel Cell For Fuel Cell Stack

OCT 18 2010

: DECISION ON
: PETITION
:
:

This is a decision on the PETITION FILED UNDER 37 CFR 1.144 filed on August 10, 2010.

The Examiner required a restriction between Group I, claims 1-11, drawn to a fuel cell stack, classified in class 429, sub class 38 and Group II, claims 12-16, drawn to a method of making a non-functional component of a fuel cell, classified in class 429, subclass 38. The Examiner stated that inventions I and II are related as process of making and product made. The Examiner set forth that the product could have been made by a different process that does not require removing an oxide layer.

Applicant asserts that the product of Group I do include an oxide layer that is removed in dependent claim 5. The Applicant further asserts that the Examiner would be required to search and examine the aspect of removing an oxide layer regardless of which Group Applicant elects.

A product defined by the process by which it can be made is still a product claim (*In re Bridgeford*, 357 F.2d 679, 149 USPQ 55 (CCPA 1966)) and can be restricted from the process if the examiner can demonstrate that the product as claimed can be made by another materially different process; defining the product in terms of a process by which it is made is nothing more than a permissible technique that applicant may use to define the invention.

Every requirement to restrict has two aspects: (A) the reasons (as distinguished from the mere statement of conclusion) why each invention *as claimed* is either independent or distinct from the other(s); and (B) the reasons why there would be a serious burden on the examiner if restriction is not required.

The Examiner has not provided a factual basis for restricting the inventions of Groups I and II under MPEP 806.05(f) and has not shown that there would be a serious burden in examining the inventions of Group I and II together. The class and subclass for both groups are the same.

11/643,178

DECISION

The petition is **GRANTED.**

The Examiner is directed to withdraw the restriction requirement of claims 1-16.

/SHARON GIBSON/
Director, Technology Center 1700
Chemical and Materials Engineering

John A. Miller
MILLER IP GROUP, PLC
GENERAL MOTORS CORPORATION
42690 WOODWARD AVENUE
SUITE 200
BLOOMFIELD HILLS MI 48304



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/643,178	12/21/2006	Ronald L. James	GP-306666-FCAR-CHE	3969
65798 7590 06/28/2011 MILLER IP GROUP, PLC GENERAL MOTORS CORPORATION 42690 WOODWARD AVENUE SUITE 200 BLOOMFIELD HILLS, MI 48304			EXAMINER WALKER, KEITH D	
			ART UNIT 1726	PAPER NUMBER
			MAIL DATE 06/28/2011	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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JUN 28 2011

wk

Mailed :
In re Application of : DECISION ON
James : PETITION
Serial No. 11/643,178 :
Filed: December 21, 2006 :
For: Non-Functional Fuel Cell For Fuel Cell Stack

This is a decision on the PETITION FILED UNDER 37 CFR 1.144 filed on April 1, 2011. Applicant's previous petition request filed on August 10, 2010 was granted and in the petition decision mailed on October 18, 2010, the Examiner was directed to withdraw the restriction requirement of claims 1-16.

On January 1, 2011, the Examiner required a restriction between Group I, claims 1-11, drawn to a fuel cell stack, classified in class 429, sub class 452 and Group II, claims 12-16, drawn to a method of making a non-functional component of a fuel cell, classified in class 429, subclass 38. The Examiner stated that due to the amendments to the claims, a new restriction is required.

Applicant asserts that it is improper for the Examiner to reinstate the same restriction requirement after it was held to be improper as determined in the decision on a Petition mailed October 18, 2010. Applicant asserts that the amendments to the claims did not require a new restriction. Gas diffusion media and bipolar plates are common elements in a fuel cell stack and were added to independent Claim 1 of Group I to overcome the Examiner's 112 rejection. Applicant submits that these elements do not change the scope of the claims in a manner that would require a new restriction.

DECISION

The petition is **GRANTED**.

11/643,178

The Examiner is directed to withdraw the restriction requirement of claims 1-16.

/W. GARY JONES/
Director, Technology Center 1700
Chemical and Materials Engineering

John A. Miller
MILLER IP GROUP, PLC
GENERAL MOTORS CORPORATION
42690 WOODWARD AVENUE
SUITE 200
BLOOMFIELD HILLS MI 48304



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Jones Day
222 E. 41st Street
New York NY 10017

MAILED

SEP 29 2011

OFFICE OF PETITIONS

In re Application of :
Shao et al. :
Application No. 11/643190 : **ON REQUEST FOR**
Filing or 371(c) Date: 12/21/2006 : **RECONSIDERATION OF**
Atty Docket No.: : **PATENT TERM ADJUSTMENT**
4821-696-999 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT, filed September 14, 2011. Applicants submit that the correct Patent Term Adjustment is 1004 days, not 697 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent. The application for patent term adjustment is properly treated under 37 C.F.R. § 1.705(b).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE.**

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is

advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee¹.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

¹ For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.



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**GENERAL ELECTRIC COMPANY
GE AVIATION
ONE NEUMANN WAY MD F16
CINCINNATI OH 45215**

MAILED

AUG 03 2010

OFFICE OF PETITIONS

In re Application of
Raafat A. Kammel, et al.
Application No. 11/643,237
Filed: December 21, 2006
Attorney Docket No. 165598

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 15, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 10, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed February 8, 2010. Accordingly, the date of abandonment of this application is May 11, 2010. The Notice of Abandonment was mailed May 26, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$1,510 and the publication fee of \$300, (2) the petition fee of \$1,620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to the Office of Data Management for processing into a patent.

Terri Johnson
Petitions Examiner
Office of Petitions



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RAYMOND R. MOSER JR., ESQ.
MOSER IP LAW GROUP/SYMANTEC CORPORATION
1030 BROAD STREET
SUITE 203
SHREWSBURY, NJ 07702

MAILED

AUG 10 2010

In re Application of
Pu Ou, et al.
Application No. 11/643,255
Filed: December 21, 2006
Attorney Docket No. SYMS060355

**OFFICE OF PETITIONS
ON PETITION**

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 8, 2010, to revive the above-identified application.

The petition is **GRANTED**, *nunc pro tunc*.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed January 7, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 8, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$810, and the submission required by 37 CFR 1.114; (2) the petition fee of \$1620; and (3) a proper statement of unintentional delay.

The Technology Center was without authority to act further in the case absent a grantable petition reviving this application after abandonment. Nevertheless, in view of this decision on petition, the RCE is now considered a proper filing and the actions of the Technology Center taken thereafter are hereby ratified.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2611 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/April M. Wise/
April M. Wise
Petitions Examiner
Office of Petitions



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DRW Mar-11

JAMES RAY & ASSOCIATES
2640 PITCAIRN ROAD
MONROEVILLE PA 15146

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MAR 28 2011

OFFICE OF PETITIONS

In re Application of :
Kenneth Armwood :
Application No.: 11/643,355 : ON PETITION
Filing Date: December 21, 2010 :
Attorney Docket No. KA 06274 :

This is a decision on the petition under 37 CFR 1.137(a), filed on December 22, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned for failure to timely file a proper response to the final Office action mailed on March 23, 2010, which set a three (3)-month shortened statutory period for reply. An Advisory Action was mailed on June 7, 2010 and on November 16, 2010. A Notice of Abandonment was mailed on February 22, 2011.

Petitioner states that there was no correspondence in the above case after Applicant's June 10, 2010, response to the final Office action mailed March 23, 2010, until the mailing of the advisory action on November 16, 2010, which was received by applicant after the application became abandoned on September 24, 2010.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

- (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or

any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee;

- (2) the petition fee as set forth in § 1.17(l);
- (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
- (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks item (3) above.

As to item (3), the Office may revive an abandoned application if the delay in responding to the relevant outstanding office requirement is shown to the satisfaction of the Director to have been “avoidable.” See, 37 CFR 1.137(a)(3). Decisions on reviving abandoned applications on the basis of “unavoidable” delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word ‘unavoidable’ . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.¹

In the instant case, petitioner has failed to provide adequate evidence that the delay was unavoidable.

The rules of practice are clear that prosecution of an application to save it from abandonment must include such complete and proper action as the condition of the case may require. The admission of an amendment not responsive to the last Office action, or refusal to admit the same, shall not operate to save the application from abandonment. “[T]he admission of, or refusal to admit, any amendment after final rejection, and any proceedings relative thereto, shall not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment under § 1.135.” See 37 CFR 1.116(a).

¹ *In re Mattullath*, 38 App. D.C. 497, 514-15 (1912) (quoting *Ex parte Pratt*, 1887 Dec. Comm’r Pat. 31, 32-33 (1887)); see also *Winkler v. Ladd*, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), *aff’d*, 143 USPQ 172 (D.C. Cir. 1963); *Ex parte Henrich*, 1913 Dec. Comm’r Pat. 139, 141 (1913). In addition, decisions on revival are made on a “case-by-case basis, taking all the facts and circumstances into account.”

Further, the abandonment of an application subject to a final Office action is not “unavoidable” within the meaning of 35 U.S.C. 133 and 37 CFR 1.137(a) in the situation in which the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. At 53162, 1203 Off. Gaz. Pat. Office at 89 (response to comment 66).

Petitioner is reminded that an Advisory Action does not start a new period for response. The application became abandoned because petitioner did not submit a proper reply to the final Office action mailed March 23, 2010.

Additionally, petitioner is encouraged to note, MPEP 711.03 (c) which states that:

[T]he petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 (“[t]he fees set forth in this section are due on filing the petition”). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(1) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.

Petitioner may wish to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an “unintentionally” abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was “unavoidable.” This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An “unintentional” petition under 37 CFR 1.137(b) must be accompanied by the petition fee set forth in 37 CFR 1.17(m).

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail: Mail Stop PETITIONS
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: Customer Service Window
 Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By fax: (571) 273-8300
 ATTN: Office of Petitions

By internet: EFS-Web
 www.uspto.gov/ebs/efs_help.html
 (for help using EFS-Web call the
 Patent Electronic Business Center
 at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions



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**JAMES RAY & ASSOCIATES
2640 PITCAIRN ROAD
MONROEVILLE PA 15146**

MAILED

AUG 01 2011

OFFICE OF PETITIONS

In re Application of	:	
Kenneth Armwood	:	
Application No. 11/643,355	:	DECISION ON PETITION
Filed: December 21, 2006	:	
Attorney Docket No. KA 06274	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 27, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action mailed March 23, 2010, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3611 for appropriate action by the Examiner in the normal course of business.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions



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MAY 24 2011

OFFICE OF PETITIONS

**DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE, SUITE 2000
PHILADELPHIA PA 19103-6996**

In re Application of	:	
John R. Lau et al.	:	
Application No. 11/643,397	:	DECISION ON PETITION
Filed: December 21, 2006	:	
Attorney Docket No. 47589-5001-01-US	:	
(2335953)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 16, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 15, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 16, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of \$810; and (3) a proper statement of unintentional delay.

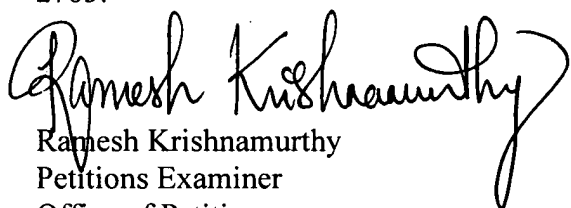
This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/687,843.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See *In re Application of S.*, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$555 extension of time fee submitted with the petition on March 16, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.



Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **DOMINGOS J. SILVA**
RIVERSIDE LAW LLP
300 FOUR FALLS CORPORATE CENTER
SUITE 710
WEST CONSHOHOCKEN PA 19428



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**COATS & BENNETT/QIMONDA
1400 CRESCENT GREEN
SUITE 300
CARY NC 27518**

MAILED

NOV 12 2010

OFFICE OF PETITIONS

In re Application of	:	
Jan Boris Philipp et al.	:	
Application No. 11/643,438	:	DECISION ON PETITION
Filed: December 21, 2006	:	TO WITHDRAW
Attorney Docket No. 6343-041	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 25, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Mark R. Bilak on behalf of all attorneys/agents associated with customer number 71577. All attorneys/agents associated with customer number 71577 have been withdrawn.

The correspondence address has been changed and is copied below.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Qimonda AG
Gustav-Heinemann-Ring 212
Muenchen, Germany 81739



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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/643,438	12/21/2006	Jan Boris Philipp	6343-041

71577
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1400 CRESCENT GREEN
SUITE 300
CARY, NC 27518

CONFIRMATION NO. 2825
POWER OF ATTORNEY NOTICE



Date Mailed: 11/10/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/25/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101



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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/643,490	12/21/2006	Robert P. Morris	1443/US	4331
52354 7590 02/04/2011 SCENERA RESEARCH, LLC JENKINS, WILSON, TAYLOR & HUNT, P.A. 5400 Trinity Road Suite 303 Raleigh, NC 27607			EXAMINER BASEHOAR, ADAM L	
			ART UNIT	PAPER NUMBER
			2178	
			MAIL DATE	DELIVERY MODE
			02/04/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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SCENERA RESEARCH, LLC
JENKINS, WILSON, TAYLOR & HUNT, P.A.
5400 Trinity Road
Suite 303
Raleigh NC 27607

In re Application of:
MORRIS, Robert
Application No. 11/643,490
Filed: December 21, 2006
For: **METHODS, SYSTEMS, AND
COMPUTER PROGRAM PRODUCTS
FOR CONTROLLING PRESENTATION
OF DYNAMIC CONTENT IN A
PRESENTATION ELEMENT**

**DECISION ON PETITION
UNDER 37 C.F.R. § 1.103(a)**

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on January 24, 2011.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on January 24, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter***. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to Eddie C. Lee whose telephone number is (571) 272-1732.

Vincent Trans
Quality Assurance Specialist, TC 2100
571-272-3613



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/643,490	12/21/2006	Robert P. Morris	I443/US	4331
52354 7590 12/22/2011 SCENERA RESEARCH, LLC JENKINS, WILSON, TAYLOR & HUNT, P.A. 5400 Trinity Road Suite 303 Raleigh, NC 27607			EXAMINER QUELER, ADAM M	
			ART UNIT 2177	PAPER NUMBER
			MAIL DATE 12/22/2011	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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Kevin L. Wingate
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of:
Robert P. MORRIS
Appl. No.: 11/643,490
Filed: December 21, 2006
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM
PRODUCTS FOR CONTROLLING PRESENTATION OF
DYNAMIC CONTENT IN A PRESENTATION ELEMENT

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 21 December 2011.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 21 December 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of **three (3) months from the mailing date of this letter**. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/

Vincent N. Trans, QAS
Technology Center 2100
Computer Architecture and Software



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/643,490	12/21/2006	Robert P. Morris	I443/US	4331
52354 7590 03/29/2012 SCENERA RESEARCH, LLC JENKINS, WILSON, TAYLOR & HUNT, P.A. 5400 Trinity Road Suite 303 Raleigh, NC 27607			EXAMINER QUELER, ADAM M	
			ART UNIT	PAPER NUMBER
			2177	
			MAIL DATE	DELIVERY MODE
			03/29/2012	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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In re Application of:
Robert P. MORRIS
Appl. No.: 11/643,490
Filed: December 21, 2006
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM
PRODUCTS FOR CONTROLLING PRESENTATION OF
DYNAMIC CONTENT IN A PRESENTATION ELEMENT

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 28 March 2012.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 28 March 2012, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of three (3) months from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, QAS
Technology Center 2100
Computer Architecture and Software



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JOHN S. BEULICK (12729)
C/O ARMSTRONG TEASDALE LLP
7700 FORSYTH BOULEVARD
SUITE 1800
ST. LOUIS MO 63105

MAILED
NOV 08 2010
OFFICE OF PETITIONS

In re Application of
Thomas O. Moniz, et al.
Application No. 11/643,495
Filed: December 20, 2006
Attorney Docket No. 207432 (12729-723)

:
:
: DECISION GRANTING PETITION
: UNDER 37 CFR 1.313(c)(2)
:

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 5, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 26, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3745 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110630

DATE : June 30, 2011

TO SPE OF : ART UNIT 1732

SUBJECT : Request for Certificate of Correction on Patent No.: 7,919,421

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Certificates of Correction Branch - ST (South Tower) 9A22

Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments:

/Melvin Curtis Mayes/
Supervisory Patent Examiner, Art Unit 1732



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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/643,615	12/21/2006	Sakari Kauppinen	50287/007003	7177
21559	7590	08/25/2011		
CLARK & ELBING LLP 101 FEDERAL STREET BOSTON, MA 02110			EXAMINER KAPUSHOC, STEPHEN THOMAS	
			ART UNIT 1634	PAPER NUMBER
			NOTIFICATION DATE 08/25/2011	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentadministrator@clarkelbing.com



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AUG 25 2011

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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Application of: :
Kauppinen, et al. :
Serial No.: 11/643,615 : PETITION DECISION
Filed: December 21, 2006 :
Attorney Docket No.: 50287/007003 :

This is in response to the petition under 37 CFR § 1.181, filed July 11, 2011, requesting that the finality of the Office action of May 13, 2011 be withdrawn.

BACKGROUND

Relevant parts of the prosecution history are summarized below.

The examiner mailed a non-final Office action on August 20, 2010 setting a three month shortened statutory period for reply. In this Office action, claims 1-40 and 43-145 were pending and claims 9-11, 21, 22, 24, 25, 27, 28, 35-40 and 106-136 were withdrawn from consideration. Claims 1-8, 12-20, 23, 26, 29-34, 43-105, 137-145 were rejected. Claims 29-33, 43-46, 75-79, 140, 141, 143, and 144 were rejected under 35 USC 112, second paragraph, as indefinite. Claims 1-6, 14-16, 18-20, 23, 26, 34, 47-74, 80-82, 84-91 and 93-105 were rejected under 35 USC 103(a) as being unpatentable over Clark et al. in view of the Supplementary Material for Clark et al. and Brassch et al. Claims 7 and 8 were rejected under 35 USC 103(a) as being unpatentable over Clark et al. in view of the Supplementary Material for Clark et al. and Brassch et al. as applied to claims 1-6, 14-16, 18-20, 23, 26, 34, 47-74, 80-82, 84-91 and 93-105 above, and further in view of Steemers et al. Claims 12 and 13 were rejected under 35 USC 103(a) as being unpatentable over Clark et al. in view of the Supplementary Material for Clark et al. and Brassch et al. as applied to claims 1-6, 14-16, 18-20, 23, 26, 34, 47-74, 80-82, 84-91 and 93-105 above, and further in view of Chiang et al. Claim 17 was rejected under 35 USC 103(a) as being unpatentable over Clark et al. in view of the Supplementary Material for Clark et al. and Brassch

et al. as applied to claims 1-6, 14-16, 18-20, 23, 26, 34, 47-74, 80-82, 84-91 and 93-105 above, and further in view of Barone et al. Claims 83 and 92 were rejected under 35 USC 103(a) as being unpatentable over Clark et al. in view of the Supplementary Material for Clark et al. and Brassch et al. as applied to claims 1-6, 14-16, 18-20, 23, 26, 34, 47-74, 80-82, 84-91 and 93-105 above, and further in view of Hacia et al. Claims 137, 138, 142 and 145 were rejected under 35 USC 103(a) as being unpatentable over Clark et al. in view of the Supplementary Material for Clark et al. and Brassch et al. as applied to claims 1-6, 14-16, 18-20, 23, 26, 34, 47-74, 80-82, 84-91 and 93-105 above, and further in view of Femino et al. Claim 139 was rejected under 35 USC 103(a) as being unpatentable over Clark et al. in view of the Supplementary Material for Clark et al. and Brassch et al. and Femino et al. as applied to claims 137, 138, 142, and 145 above, and further in view of Taneja et al.

On February 22, 2011, applicants filed arguments traversing the examiner's rejections instituted in the non-final Office action of August 20, 2010.

The examiner mailed a final Office action on May 13, 2011 setting a three month shortened statutory period for reply. In this Office action, claims 1-28, 32-40, 43, 47-50, and 54-145 were pending and claims 9-11, 21, 22, 24, 25, 27, 28, 35-40, 106-136, 140, 141, 143 and 144 were withdrawn from consideration. Claims 1-8, 12-20, 23, 26, 32-34, 43, 47-50, 54-105, 137-139, 142 and 145 were rejected. Claims 1-6, 14-16, 18-20, 23, 26, 32-34, 43, 47-74, 80-82, 84-91 and 93-105 were rejected under 35 USC 103(a) as being unpatentable over Clark et al. in view of the Supplementary Material for Clark et al. and Brassch et al. Claims 7 and 8 were rejected under 35 USC 103(a) as being unpatentable over Clark et al. in view of the Supplementary Material for Clark et al. and Brassch et al. as applied to claims 1-6, 14-16, 18-20, 23, 26, 32-34, 43, 47-74, 80-82, 84-91 and 93-105 above, and further in view of Steemers et al. Claims 12 and 13 were rejected under 35 USC 103(a) as being unpatentable over Clark et al. in view of the Supplementary Material for Clark et al. and Brassch et al. as applied to claims 1-6, 14-16, 18-20, 23, 26, 32-34, 43, 47-74, 80-82, 84-91 and 93-105 above, and further in view of Chiang et al. Claim 17 was rejected under 35 USC 103(a) as being unpatentable over Clark et al. in view of the Supplementary Material for Clark et al. and Brassch et al. as applied to claims 1-6, 14-16, 18-20, 23, 26, 32-34, 43, 47-74, 80-82, 84-91 and 93-105 above, and further in view of Barone et al. Claims 83 and 92 were rejected under 35 USC 103(a) as being unpatentable over Clark et al. in view of the Supplementary Material for Clark et al. and Brassch et al. as applied to claims 1-6, 14-16, 18-20, 23, 26, 32-34, 43, 47-74, 80-82, 84-91 and 93-105 above, and further in view of Hacia et al. Claims 137, 138, 142 and 145 were rejected under 35 USC 103(a) as being unpatentable over Clark et al. in view of the Supplementary Material for Clark et al. and Brassch et al. as applied to claims 1-6, 14-16, 18-20, 23, 26, 32-34, 43, 47-74, 80-82, 84-91 and 93-105 above, and further in view of Femino et al. Claim 139 was rejected under 35 USC 103(a) as being unpatentable over Clark et al. in view of the Supplementary Material for Clark et al. and Brassch et al. and Femino et al. as applied to claims 137, 138, 142, and 145 above, and further in view of Chiang et al. Claims 75-79 were newly rejected under 35 USC 103(a) as being unpatentable over Clark et al. in view of the Supplementary Material for Clark et al. and Brassch et al. as applied to claims 1-6, 14-16, 18-20, 23, 26, 32-34, 43, 47-74, 80-82, 84-91 and 93-105 above, and further in view of Fugono et al.

In reply to the final Office action of May 13, 2011, applicants filed this petition under 37 CFR § 1.181 on July 11, 2011, requesting that the finality of the Office action of May 13, 2011 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

Applicants argue that “The Office issued a non-final action on August 20, 2010 in which claims 75-79 were rejected solely for indefiniteness under 35 U.S.C. § 112, second paragraph. These claims recited the term "population," which had no antecedent basis because of an error in dependency. The error in dependency was corrected in Applicants' reply filed on February 22, 2011. In response to the reply filed on February 22, 2011, the Office issued a final action on May 13, 2011 in which claims 75-79 were first rejected for obviousness over Clark et al. (Science 2002, 296:907) in view of the Supplementary Material for Clark, Brassch and Corey (Chemistry & Biology 2001, 8:1), and Fugono et al. (U.S. Patent No. 5,738,993). Fugono et al. had not been previously cited by the Office, and the reference was not provided by Applicants in an Information Disclosure Statement. The Office also stated that Applicants' amendment necessitated the new ground of rejection (Office Action issued May 13, 2011; pages 15-16).” Applicants further state “that rejecting claims 75-79 for obviousness for the first time in the final action of May 13, 2011 was improper. Specifically, in the action of August 20, 2010, the Office did not provide any interpretation of claims 75-79 and did not make any rejections over prior art. Thus, claims 75-79 were not fully examined as required by the M.P.E.P. and the Guidelines. Applicants' amendment to correct the dependency of claim 75 could not alter a claim interpretation made by the Office, because none was made. Therefore, the new obviousness rejection was not necessitated by Applicants' amendment and should have been issued in the first Office Action. Furthermore, the new obviousness rejection issued by the Office was not based on information submitted in an information disclosure statement filed during the period set forth in 37 C.F.R. § 1.97(c). Because Applicants' amendment did not necessitate the rejection and the Office should have fully examined the claims in the first Office Action, the finality of the Office Action issued on May 13, 2011 should be withdrawn.”

Applicants' argument has been accorded careful consideration but it is not persuasive. It is not incumbent upon the examiner to try and guess what is intended by applicants' claims. Specifically, the examiner could not examine claims 75-79 and apply the rejection under 35 USC 103 because claim 1, as originally filed, was drawn to doing a test in vitro, not in a population. Claims 75-79 depended upon claim 1 which the examiner felt could not be examined because the intent of the claims could not be determined. The amendment of February 22, 2011 clarified what was intended by claims 75-79 which was changing the dependency of the claim to its new base claim 72, rendering the claims definite. Accordingly, it is not persuasive that the final Office action issued May 13, 2011 was premature and improper and the finality of the Office action will not be withdrawn.

DECISION

The petition is **DENIED**.

Any new or renewed petition must be filed within TWO MONTHS of the mail date of this decision.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

A handwritten signature in cursive script that reads "J. Stone".

Jacqueline Stone
Director, Technology Center 1600



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STEVEN PINKERT, ESQ
PINKERT LAW FIRM, P.A ONE DATRAN CENTER - STE 1702
9100 S. DADELAND BLVD
MIAMI, FL 33156

MAILED

AUG 04 2010

In re Application of	:	OFFICE OF PETITIONS
David Meazoa	:	
Application No. 11/643,620	:	DECISION ON PETITION
Filed: December 21, 2006	:	TO WITHDRAW
Attorney Docket No. Meazoa-Spinning Soft	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 12, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Steven D. Pinkert on behalf of all attorneys of record who are associated with customer No. 71596. All attorneys/agents associated with the Customer Number 71596 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed June 24, 2010 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of the

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: DAVID MEAZOA
15488 SE 18TH STREET
MIAMI, FL 33185



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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/643,620	12/21/2006	David Meazoa	Meazoa-Spinning Soft

CONFIRMATION NO. 5124

POWER OF ATTORNEY NOTICE

71596

STEVEN PINKERT , ESQ
PINKERT LAW FIRM ,P.A ONE DATRAN CENTER - STE 1702
9100 S. DADELAND BLVD
MIAMI, FL 33156



Date Mailed: 08/03/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/12/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101



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MAILED

AUG 04 2010

OFFICE OF PETITIONS

In re Application of

David Meazoa

Application No. 11/643,620

Filed: December 21, 2006

Attorney Docket No. Meazoa-Spinning Soft

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 12, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Steven D. Pinkert on behalf of all attorneys of record who are associated with customer No. 71596. All attorneys/agents associated with the Customer Number 71596 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: DAVID MEAZOA
15488 SE 18TH STREET
MIAMI, FL 33185



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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/643,620	12/21/2006	David Meazoa	Meazoa-Spinning Soft

CONFIRMATION NO. 5124

POWER OF ATTORNEY NOTICE

71596

STEVEN PINKERT, ESQ
PINKERT LAW FIRM, P.A ONE DATRAN CENTER - STE 1702
9100 S. DADELAND BLVD
MIAMI, FL 33156



Date Mailed: 08/03/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/12/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20101018

DATE : October 26, 2010

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction on Patent No.: 7778127

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Certificates of Correction Branch - PK 3-910

Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments:

Re paper filed 9/22/2010

SPE: /Wayne Young/

Art Unit 2627

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110119

DATE : January 19, 2011

TO SPE OF : ART UNIT 3661

SUBJECT : Request for Certificate of Correction on Patent No.: 7,826,947

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Certificates of Correction Branch - ST (South Tower) 9A22

Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments:

/Thomas G. Black/
Supervisory Patent Examiner, Art Unit 3661



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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

NOV 04 2010

OFFICE OF PETITIONS

In re Application of	:	
Patton	:	
Application No. 11/643,738	:	ON APPLICATION FOR
Filed: December 20, 2006	:	PATENT TERM ADJUSTMENT
Atty Docket No. 20878US01	:	

This is in response to the APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705), "filed September 13, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is nine hundred ninety-two (992) days, not six hundred twenty-six (626) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE.**

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that he may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee¹.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

¹ For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

A handwritten signature in cursive script, reading "Shirene Willis Brantley".

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions



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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED
MAR 25 2011
OFFICE OF PETITIONS

In re Patent of Patton :
Patent No. 7,852,914 :
Issue Date: December 14, 2010 : DECISION ON
Application No. 11/643,738 : REQUEST FOR RECONSIDERATION
Filed: December 20, 2006 : OF
Atty Docket No. 20878US01 : PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(b) INDICATED IN THE PATENT (37 CFR § 1.705(d))," filed February 9, 2011. Patentee requests that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred eighty-seven(985) days.

The petition is **GRANTED to the extent indicated herein.**

On December 14, 2010, the above-identified application matured into U.S. Patent No. 7,852,914 with a patent term adjustment of 872 days.

This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 1.705(d). The Office acknowledges receipt of the required \$200.00 fee under 37 CFR 1.18(e).

Patentee disputes two reductions. The PTA of 872 days was reduced by 111 days pursuant to 37 C.F.R. § 1.704(c)(10) for the submission of an amendment under 37 CFR 1.132 on August 26, 2010 after the mailing of the Notice of Allowance.

Patentee asserts in page 2 of 9 of the petition, "The USPTO is believed to be characterizing the paper filed by the Applicant entitled, "Comments of Statement of Reasons for Allowance," also

submitting formal drawings, on August 26, 2010, after the June 11, 2010, mailing date of the Notice of Allowance, as an alleged amendment under 1.312 or other paper delaying prosecution. ..." Patentee contends that applicant did not engage in behavior that reasonably would be considered as failing in efforts to conclude prosecution of the application by filing the August 26, 2010 correspondence.

The reduction has been considered and a reduction is found to be warranted. As a preliminary matter, the "Comments of Statement of Reasons for Allowance" was filed on September 13, 2010. Correspondence entitled, "Rule 312 Amendment - Formal Drawings Submission," was filed on August 26, 2010. This was properly a basis for reduction of patent term adjustment pursuant to § 1.704(c)(10).

37 CFR § 1.704(c)(10) provides that:

Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;

or

(ii) Four months;

As stated in MPEP 2732:

37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process.

Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office). Papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application include: (1) a request for a refund; (2) a status letter; (3) amendments under 37 CFR 1.312; (4) late priority claims; (5) a certified copy of a priority document; (6) drawings; (7) letters related to biologic deposits; and (8) oaths or declarations.

As noted above, papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application include: ... (3) amendments under 37 CFR 1.312. Patentee failed to engage in reasonable efforts to conclude examination and interfered with the patent issuance process by filing an amendment under 37 CFR 1.312. The period of reduction is properly calculated as 111 days, counting the number of days in the period beginning on the date the amendment under 37 CFR 1.312 was filed, August 26, 2010, and ending on the December 14, 2010, the date the patent issued. The reduction would normally be 4 months in length, because as patentee notes, the Office did not mail correspondence in response to the August 26, 2010 amendment under 37 CFR 1.312, but as the patent issued prior to the expiration of 4 months, the calculation terminates with the patent issue date. The internal notation of "WORKFLOW - DRAWINGS FINISHED" does not impact the analysis. It does not mean that the Rule 312 amendment was received on August 26, 2010 and was reviewed the very same day. That assertion defies logic. No change will be made to the 111 day reduction made in connection with the Rule 312 amendment filed on August 26, 2010.

Patentee next argues that the reduction of 2 days under 37 CFR 1.704(b) for payment of the issue fee on September 13, 2010 should be removed. The Office concurs, but not for the reason stated.

While the September 13, 2010 payment of the issue fee was timely with respect to avoiding abandonment, it was not timely for purposes of determining patent term adjustment. Per 37 CFR 1.704(b), an applicant is responsible for replying to an Office action within three months of the date the Office action was mailed or given to him/her. The date of receipt in the Office is the salient date for purposes of determining patent term adjustment. If applicant wanted to avoid the 2 day reduction, applicant should have utilized USPS Express Mail Service or faxed the reply prior to September 11, 2010 or mailed the correspondence with sufficient time to ensure that the correspondence was received in the Office (and stamped with a date of receipt) before the expiration of the three-month period. See MPEP 2731.

Nonetheless, patentee is correct that the period of reduction of 2 days should be removed. The two day reduction, from September 12, 2010 to September 13, 2010, is subsumed in the 111 day reduction from August 26, 2010 to December 14, 2010. Under the circumstances, the period of reduction of two (2) days is being removed.

In light thereof, the correct patent term adjustment is eight hundred seventy-four (874) days, which is 659 days of delay under 35 U.S.C. 154(b)(1)(A) + 359 days of delay under 35 U.S.C. 154(b)(1)(B) minus 144 (33 + 111) days of Applicant delay.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District

Patent No. 7,852,914

Application No. 11/643,738

Page 5

Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,852,914 B2

DATED : December 14, 2010

DRAFT

INVENTOR(S) : Patton

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C 154(b) by 872 days

Delete the phrase "by 872 days" and insert – by 874 days--



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Patent No. : 7,805,669 B2
Ser. No. : 11/643,780
Inventor(s) : Sattler et al.
Issued : Sep. 28, 2010
Title : SYSTEM AND METHOD FOR SELECTIVE FORM CONFIGURATION
Docket No. : 11884-450801
Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 (*see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481*). This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

- A. **the processing fee set forth in 37 CFR 1. 17(i) (currently \$130);**
- B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
- C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: **Mail Stop PETITIONS**
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently \$100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) 272-3435 or (703) 756-1814



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OFFICE OF PETITIONS

KENYON & KENYON LLP
1500 K STREET N.W.
WASHINGTON DC 20005

In re Application of :
Sattler et al. :
Application No. 11/643,780 : DECISION ON PETITION
In re Patent No. 7,805,669 : PURSUANT TO 37 C.F.R.
Filing Date: December 22, 2006 : \$ 3.81(B)
Issue Date: September 28, 2010 :
Attorney Docket Number: 11884- :
450801 :
Title: SYSTEM AND METHOD FOR :
SELECTIVE FORM CONFIGURATION :

This is a decision on the petition pursuant to 37 C.F.R. § 3.81(b), filed February 1, 2012, to correct the Assignees' information on the Issue Fee Transmittal Form PTOL-85(b).

The petition is **GRANTED** to the extent that a Certificate of Correction will be issued, correcting the Assignee information to "SAP AG, WALLDORF (DE)."

With this petition, Petitioner requests that a Certificate of Correction be issued to correct the assignee information that appears on the face of the patent. Petitioner has requested that the name of the Assignee should be changed from "SAG (emphasis added) AG, WALLDORF (DE)" to "SAP AG, WALLDORF (DE)."

37 C.F.R. § 3.81(b), effective June 25, 2004, reads:

(b) After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in 3.11 before issuance of the patent, and must include a request for a certificate of correction under 1.323 of this chapter (accompanied

by the fee set forth in 1.20(a)) and the processing fee set forth in 1.17(i) of this chapter.

Petitioner has set forth that the assignment was submitted for recordation as set forth in 37 C.F.R. § 3.11 before issuance of the patent, and Office records confirm that an assignment was received in the Office on January 3, 2007, listing SAP AG, of Walldorf, Germany as the Assignee.

Payment of the required \$130 processing fee and the \$100 certificate of correction fee is acknowledged. The duplicate \$130 processing fee will be refunded to Deposit Account No. 11-0600 in due course.

The Certificates of Correction Branch will be notified of this decision so that the requested Certificate of Correction can be issued, correcting the Assignee information to "SAP AG, WALLDORF (DE)."

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 756-1814.



Paul Shanowski
Senior Attorney
Office of Petitions



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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/643,792	12/22/2006	Bernd Sundermann	029310.58517US	3792
23911 7590 07/19/2011 CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300			EXAMINER MORRIS, PATRICIA L	
			ART UNIT 1625	PAPER NUMBER
			MAIL DATE 07/19/2011	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



JUL 19 2011

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Joseph D. Evans
CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

In re Application of	:
Sundermann et al	:Decision on Petition
Serial No.: 11/643,792	:
Filed : 22 December 2006	:
Attorney Docket No.: 106930.58517US	:

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on 11 July 2011 requesting reconsideration of the restriction requirement mailed 1 June 2010.

BACKGROUND

This application was filed as a national application under 35 U.S.C. 111(a) and as such is entitled to restriction practice described in Chapter 800.

On 1 June 2010, the examiner set forth a restriction requirement which divided claims 1-25 into nine groups based upon the W, n and other presence or absence of additional heterocycles and required a further election of species. Groups I and II are set forth below.

- I. The instances wherein W is CH₂, n is 1 and no additional heterocycle is present, classified in class 546, subclass 329+.
- II. The instances wherein W is CH₂, n is 0 and no additional heterocycle is present, classified in class 546, subclass 286+.

On 29 July 2010, applicants elected Group II, and the compound of Example 6. Applicants traversed the further restriction of the compound and composition claims.

On 23 September 2010, the examiner mailed to applicants a non-final Office action in which the traversal was considered, and the requirement was made final. Claims 11-13, 15-18, 21, and 23-25 were withdrawn from consideration under 37 CFR 1.142(b) as being directed to non-elected subject matter. Claims 1 and 22 were rejected under 35 U.S.C. 112, 1st paragraph for scope of enablement, for not providing enablement for preparing any and all unknown solvates and derivatives. Claims 1-6, 8-10 and 22 were rejected under 35 U.S.C. 112, 2nd. The examiner indicated that claims 1-6, 8-10 and 22 would be allowable if the claims were amended to overcome the 112 rejections and to be rewritten solely to the elected compounds.

On 10 March 2011, the examiner prepared a final Office action. Claims 1, 3-5 and 9 were rejected under 35 U.S.C. 112, second paragraph. Claims 2, 6, 8, and 10 were objected to as being dependent upon rejected base claims, but would be allowable if rewritten in independent form and directed solely to the elected compounds. Claim 22 was objected to for containing non-elected subject matter. Claims 11-13, 15-18, 21, and 23-25 were withdrawn from consideration under 37 CFR 1.142(b) as being directed to non-elected subject matter.

On 11 July 2011, applicants filed a response to the final Office action along with this petition.

DISCUSSION

The file history and petition have been considered carefully. At the onset, it is noted that the examiner has improperly grouped together a variety of compounds in Group VII as follows:

- VII. The instances drawn to compounds not grouped in Groups I-VI because claim 1 is too vague to further group.

This sort of grouping is not valid because it mixes up claim clarity (a substantive examination issue) with restriction (a procedural issue). Additional embodiments recited in claim 1 (beyond those listed in Groups I-VI) are clear. For example, n can be 2 or 3 when W is CH₂. The groupings, however, failed to set forth this option for applicants to elect, even though Group I is directed to n being 1 while Group II is directed to n being 0.

Next, the applicant elected Group II for examination, while the examiner appears to have examined Group I. See Applicant's election on 29 July 2010:

REMARKS

Responsive to the requirement for restriction, applicants hereby provisionally elect the subject matter of group II for examination in the instant application. This provisional election is made with partial traverse.

Here is the Examiner's interpretation on 23 September 2010:

Election/Restrictions

Applicant's election with traverse of Group I and example 6 in the reply filed on July 29,

2010 is acknowledged. The traversal is on the ground that the compounds all share a substantial

This is counter to MPEP 817, which states:

The examiner must provide a clear and detailed record of the restriction requirement to provide a clear demarcation between restricted inventions so that it can be determined whether inventions claimed in a continuing application are consonant with the restriction requirement and therefore subject to the prohibition against double patenting rejections under 35 U.S.C. 121. *Geneva Pharms. Inc. v. GlaxoSmithKline PLC*, 349 F.3d 1373, 1381, 68 USPQ2d 1865, 1871 (Fed. Cir. 2003). See also MPEP § 804.01.

This is also counter to MPEP 818, which states:

Applicant must make his or her own election; the examiner will not make the election for the applicant. 37 CFR 1.142, 37 CFR 1.143.

Third, the examiner has mixed up procedural issues (restriction) with a substantive issue (examination on the merits) in the original restriction (the vagueness of alternatives grouped together in Group VII) and in the final action (by maintaining that the restriction requirement because "very few of the compounds are even exemplified in the specification and then further, the specification is non-enabling for many of the claimed compounds.") Vagueness and/or lack of enablement are not reasons that would justify a restriction requirement. Further, it is noted that the final Office action does not contain any lack of enablement rejection and does not address the scope of enablement rejection made in the non-final action.

Turning now to the merits of the petition, applicant points out that the examiner has placed Markush claims into separate groups for the purposes of restriction. Because applicant's claims are drafted in Markush-type format, the petition argues that they should be considered under the guidelines of MPEP 803.02. This is persuasive.

Further, it is noted that on 9 February 2011, the Office issued a Federal Register Notice entitled "Supplemental Examination Guidelines for Determining Compliance with 35 U.S.C. 112 and for treatment of Related Issues in Patent Applications." Page 7166 sets forth guidelines for the treatment of Markush-type claims:

“Under principles of compact prosecution, the examiner should also require the applicant to elect a species or group of indistinct species for search and examination (i.e., an election of species). If the examiner does not find the species or group of indistinct species in the prior art, then the examiner should extend the search to those additional species that fall within the scope of a permissible Markush claim. In other words, the examiner should extend the search to the species that share a single structural similarity and a common use. The improper Markush claim should be examined for patentability over the prior art with respect to the elected species or group of indistinct species, as well as the species that share a single structural similarity and a common use with the elected species or group of indistinct species (i.e., the species that would fall within the scope of a proper Markush claim).”

In view of these new guidelines and guidance in MPEP 803.02, the restriction requirement between the embodiments of the Markush claims (Groups I-VII) is found to be unwarranted and is hereby replaced with a provisional election of species requirement.

Lastly, applicant has argued that the examiner has not followed the election and examination practice for Markush claims. MPEP 803.02 requires extended examination of other embodiments. See:

Following election, the Markush-type claim will be examined fully with respect to the elected species and further to the extent necessary to determine patentability.

Instead, here the examiner has improperly objected to Markush claim for reciting non-elected species. This is not warranted. Because the claims were not examined according to MPEP 803.02 and the FR Notice, the finality of the Office action mailed 1 June 2011 is considered premature.

DECISION

For these reasons, the petition filed under 37 CFR 1.144 on 11 July 2011 is **GRANTED** follows.

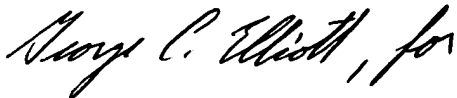
The intra-claim restriction requirement made between Groups I-VII on 1 June 2010 has been withdrawn and replaced with an election of species requirement.

The objection to claims for reciting non-elected species and any requirement to remove non-elected subject matter from the alternative of a claim has been withdrawn.

The finality of the Office action mailed 1 June 2011 has been withdrawn. The amendment filed 11 July 2011 has been entered.

The application will be forwarded to the examiner to consider the papers filed 11 July 2011, and to prepare a supplemental Office action consistent with this petition decision. Markush claims are to be examined according to the guidance in MPEP 803.02 and the FR Notice of February 2011.

Should there be any questions regarding this decision, please contact Quality Assurance Specialist Julie Burke by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-0512 or by Official Fax at 703-272-8300.

A handwritten signature in black ink, appearing to read "Remy C. Elliott, for".

Remy Yucel
Director, Technology Center 1600



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OTTAWA ON K1P 5Y6 CANADA

MAILED

OCT 20 2010

OFFICE OF PETITIONS

In re Patent No. 7,747,833 : DECISION ON REQUEST FOR
PYEON et al. : RECONSIDERATION OF
Issue Date: June 29, 2010 : PATENT TERM ADJUSTMENT
Application No. 11/643,850 :
Filed: December 22, 2006 :
Atty Docket No. 76181-8CIP/ABA:

This is a decision on the petition filed on August 27, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred thirty-four (634) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED**.

Patentee is given **TWO (2) MONTHS** from the mailing date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

37 CFR 1.703(b) indicates that the period of adjustment under 37 CFR 1.702(b) ("over three year period") is the number of days, if any, in the period beginning on the day after the date that is three years after the actual filing date of the application and ending on the date a patent was issued. 35 U.S.C. 154(b)(1)(B). However, 37 CFR 1.703(b) also sets forth the limitations on patent term adjustment specified in 35 U.S.C.

154(b)(1)(B)(i) and (ii). Specifically, 37 CFR 1.703(b)(1) provides that the period of adjustment of the term of a patent shall not include the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the B delay period, the over three year period begins on December 23, 2009, and ends on November 24, 2009, the day before the RCE was filed, and is zero (not 189) days. See 35 U.S.C. 154(b)(1)(B)(i).

Accordingly, the patent term adjustment remains 445 days.

The Office acknowledges the submission of the \$200.00 fee set forth in 37 CFR 1.18(e).

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



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PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15TH STREET, NW
WASHINGTON, DC 20005

MAILED

AUG 16 2010

OFFICE OF PETITIONS

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

In re Application of
Yazdi et al.
Application No. 11/643,878
Filed: December 22, 2006
Attorney Docket No. VTX0347-US

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed on June 30, 2010.

The request is **NOT APPROVED**.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71*, or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.

As there is no Statement under 37 CFR 3.73(b) in the instant application, the request cannot be granted. All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

There are no outstanding Office actions that require a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquiries concerning either the examination or status of the application should be directed to the Office of Data Management.

Alicia Kelley
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**DON J. PELTO
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
1300 I STREET, NW
11TH FLOOR EAST
WASHINGTON DC 20005**

**MAILED
SEP 09 2011
OFFICE OF PETITIONS**

In re Application of :
Giordano et al. :
Application No. 11/643,886 : DECISION ON PETITION
Filed: December 22, 2006 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 14ME-129115 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 28, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

With regards to item (1), when a later-filed application is claiming the benefit of a prior-filed nonprovisional application under 35 U.S.C. 120, 121, or 365(c), the later-filed application must be copending with the prior application or with an intermediate nonprovisional application similarly entitled to the benefit of the filing date of the prior application. Copendency is defined in the clause which requires that the later-filed application must be filed before: (A) the patenting of the prior application; (B) the abandonment of the prior application; or (C) the termination of proceedings in the prior application.

Petitioner has requested benefit of Application No. 12/143,517, filed on June 20, 2008. Since the instant application was filed on December 22, 2006, no copendency exists between these two applications. Copendency between the instant application and the prior application is required. Since the applications are not copending, the benefit claim to the prior-filed nonprovisional is improper. Applicant is required to delete the reference to the prior-filed application from the first sentence(s) of the specification, unless applicant can establish copendency between the applications.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment correcting the above matters, along with a renewed petition under 37 CFR 1.78(a)(3), is required. No further petition fee is necessary.

Further, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: Customer Window located at:
 U.S. Patent and Trademark Office
 Customer Service Window Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By fax: (571) 273-8300
 ATTN: Office of Petitions

Any questions concerning this matter may be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions



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Alexandria, VA 22313-1450
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DON J. PELTO
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
1300 I STREET, NW
11TH FLOOR EAST
WASHINGTON DC 20005

MAILED

OCT 12 2011

OFFICE OF PETITIONS

In re Application of
Giordano et al.
Application No. 11/643,886
Filed: December 22, 2006
Attorney Docket No. 14ME-129115

:
:
: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3)
:

This is a decision on petition under 37 CFR 1.78(a)(3), filed October 5, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications as set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

Further, 37 CFR 1.78(a)(2)(ii) requires a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.78(a)(2)(ii), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.78(a)(2)(ii) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751.

This matter is being referred to Technology Center Art Unit 1629 for appropriate action on the amendment filed October 5, 2011, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
11/643,886	12/22/2006	1629	6436	14ME-129115	99	2

CONFIRMATION NO. 2534

CORRECTED FILING RECEIPT



OC000000050295340

68850

DON J. PELTO

Sheppard, Mullin, Richter & Hampton LLP

1300 I STREET, NW

11TH FLOOR EAST

WASHINGTON, DC 20005

Date Mailed: 10/11/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

John A. Giordano, West Orange, NJ;

Charles J. Balzer, Lavalette, NJ;

Assignment For Published Patent Application

Everett Laboratories, Inc.

Power of Attorney: The patent practitioners associated with Customer Number 23767

Domestic Priority data as claimed by applicant

This application is a CIP of 10/790,027 03/02/2004 PAT 7,390,509

which is a CON of 10/315,159 12/10/2002 PAT 6,814,983

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see <http://www.uspto.gov> for more information.)

If Required, Foreign Filing License Granted: 01/25/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/643,886**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Methods and kits for co-administration of nutritional supplements

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/644,009	12/22/2006	Ralph Furmaniak	2525.0010001	4815

7590 01/26/2011
STERNE, KESSLER, GOLDSTEIN & FOX, P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER

SHERALI, ISHRAT I

ART UNIT	PAPER NUMBER
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2624

MAIL DATE	DELIVERY MODE
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01/26/2011

PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

January 25, 2011

STERNE, KESSLER, GOLDSTEIN & FOX, P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of	: DECISION ON PETITION
Furmaniak, Ralph, et al,	
Application No: 11/644009	: ACCEPTANCE OF COLOR
Filed: 12/22/2006	: DRAWINGS
Attorney Docket: 2525.0010001	:

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R. 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) December 22, 2006.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings.

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is **GRANTED**.

Telephone inquiries relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Bernadette Queen/
Quality Control Specialist
Office of Data Management
Publications Branch



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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

MAILED
JAN 31 2011
OFFICE OF PETITIONS

In re Application of
FASICK, et al
Application No. 11/644,048
Filed: December 22, 2008
Attorney Docket No. 77685

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 23, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 19, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is June 20, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$405, and the submission required by 37 CFR 1.114; (2) the petition fee of \$810; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a

reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 1642 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/644,099	12/22/2006	Yuji Takao	8073P285	7325
7590 08/31/2010 BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP 1279 OAKMEAD PARKWAY SUNNYVALE, CA 94085-4040			EXAMINER TRAN, THAI Q	
			ART UNIT 2621	PAPER NUMBER
			MAIL DATE 08/31/2010	DELIVERY MODE PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management

11/31/2010 5:00 PM
11/31/2010 5:00 PM
11/31/2010 5:00 PM



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BOR Z. JANG
9436 PARKSIDE DRIVE
CENTERVILLE OH 45458

MAILED
MAY 05 2011
OFFICE OF PETITIONS

In re Application of
Jang et al.
Application No. 11/644,122
Filed: December 26, 2006
Attorney Docket No. 075213-00032

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 18, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), (2) the petition fee of \$810.00, and (3) a proper statement of unintentional delay.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 1729 for further processing of the Request for Continued Examination under 37 CFR 1.114 filed concurrently with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: MARK P. LEVY
THOMPSON HINE LLP
200 COURTHOUSE PLAZA, N.E.
P.O. BOX 8801
DAYTON, OH 45401-8801



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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/644,123	12/22/2006	Robert P. Morris	1436/US	4920
52354 7590 12/17/2010 SCENERA RESEARCH, LLC JENKINS, WILSON, TAYLOR & HUNT, P.A. 5400 Trinity Road Suite 303 Raleigh, NC 27607				
			EXAMINER COUGHLAN, PETER D	
			ART UNIT 2129	PAPER NUMBER
			MAIL DATE 12/17/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/644,123	12/22/2006	Robert P. Morris	1436/US	4920

52354 7590 12/17/2010

SCENERA RESEARCH, LLC
JENKINS, WILSON, TAYLOR & HUNT, P.A.
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER

COUGHLAN, PETER D

ART UNIT

PAPER NUMBER

2129

DATE MAILED: 12/17/2010

Please find below and/or attached an Office communication concerning this application or proceeding.

The request for deferral/suspension of action under 37 CFR 1.103 has been approved.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/644,123	12/22/2006	Robert P. Morris	1436/US	4920
52354 7590 11/21/2011 SCENERA RESEARCH, LLC JENKINS, WILSON, TAYLOR & HUNT, P.A. 5400 Trinity Road Suite 303 Raleigh, NC 27607				
			EXAMINER COUGHLAN, PETER D	
			ART UNIT 2122	PAPER NUMBER
			MAIL DATE 11/21/2011	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Kevin L. Wingate
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of:
Robert P. MORRIS
Appl. No.: 11/644,123
Filed: December 22, 2006
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM
PRODUCTS FOR A SELF-AUTOMATING SET OF
SERVICES OR DEVICES

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 14 November 2011.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 14 November 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of three (3) months from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, QAS
Technology Center 2100
Computer Architecture and Software



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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/644,123	12/22/2006	Robert P. Morris	1436/US	4920
52354 7590 02/23/2012 SCENERA RESEARCH, LLC JENKINS, WILSON, TAYLOR & HUNT, P.A. 5400 Trinity Road Suite 303 Raleigh, NC 27607			EXAMINER COUGHLAN, PETER D	
			ART UNIT 2122	PAPER NUMBER
			MAIL DATE 02/23/2012	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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Theodosios Thomas
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of:
Robert P. MORRIS
Appl. No.: 11/644,123
Filed: December 22, 2006
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM
PRODUCTS FOR A SELF-AUTOMATING SET OF
SERVICES OR DEVICES

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 22 February 2012.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 22 February 2012, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of three (3) months from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, QAS
Technology Center 2100
Computer Architecture and Software



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MATTHEW K HILLMAN
CYMER, INC., LEGAL DEPARTMENT
17075 THORN MINT COURT, MS/4-2C
SAN DIEGO, CA 92127-2413

MAILED

APR 28 2011

In re Application of	:	OFFICE OF PETITIONS
Igor V. FOMENKOV	:	
Application No. 11/644,153	:	DECISION DISMISSING PETITION
Filed: December 22, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2006-0006-01	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 14, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

In this case, the petition was not received in the Office of Petitions for consideration until April 25, 2011. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the \$810 filing fee and the \$130 petition fee submitted are unnecessary and will be refunded in due course.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. See 37 CFR 1.97(i).

Petitioner is advised, that while petitions to withdraw from issue may be mailed to the Commissioner for Patents, as was done in this case, applicants were cautioned to hand carry or fax petitions to withdraw from issue directly to the Office of Petitions. See MPEP § 1308.

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/19/11

TO SPE OF : ART UNIT 2176

SUBJECT : Request for Certificate of Correction for Appl. No.: 11644162 Patent No.: 7823054

CofC mailroom date: 02/07/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Randolph Square – 9D10-A

Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Certificates of Correction Branch

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes do not apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

/Doug Hutton/

Supervisory Patent Examiner, Art Unit 2176



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**KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND OR 97204**

MAILED

SEP 24 2010

OFFICE OF PETITIONS

In re Application of :
James M. RIXEN :
Application No. 11/644,431 : **DECISION ON PETITION**
Filed: December 22, 2006 :
Attorney Docket No. RME.303CON :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 29, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 29, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 30, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of \$810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 3742 for appropriate action by the Examiner in the normal course of business.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/644,482	12/21/2006	Hideyuki Tsutsumitake	6639P282	6575
7590 02/16/2011 BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP 1279 OAKMEAD PARKWAY SUNNYVALE, CA 94085-4040			EXAMINER GOORAY, MARK A	
			ART UNIT 2193	PAPER NUMBER
			MAIL DATE 02/16/2011	DELIVERY MODE PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management



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09 SEP 2010

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Gerald T. Shekleton
22nd Floor
120 South Riverside Plaza
Chicago IL 60606-3912

In re Application of :
BRADLEY :
Application No. 11/644,529 : DECISION ON PETITION
Filed: December 22, 2006 : UNDER 37 CFR 1.55(c)
Attorney Docket No. 8617-89267-DIV :

This is a decision on the petition under 37 CFR 1.55(c), filed 19 November 2008.

The petition is **DISMISSED**.

The petition identified three priority claims: 1) USPN 7,183,333; 2) GB 0019251.8 and 3) PCT/GB01/03497.

It is noted that the claim to British Application No. GB 0019251.8 was present upon filing. Further, the above-identified pending nonprovisional application was filed as a divisional of U.S. application 10/343,782. U.S. application number 10/343,782 is the U.S. National phase application of PCT/GB01/03497 having a filing date of 03 August 2001 (i.e. the international filing date, see 35 U.S.C. 363) which is within 12 months of 04 August 2000 (the filing date of GB0019251.8). As such, a petition to add a foreign claim of priority GB0019251.8 is not necessary.

It appears that applicant is attempting to claim foreign priority to international application PCT/GB01/03497 in addition to the domestic benefit claim to PCT/GB01/03497 as previously indicated. However, a foreign priority claim to PCT/GB01/03497 is improper as the present application was filed more than 12 months from the filing date of the international application. (See 35 U.S.C. 119(a)).

Lastly, regarding the domestic benefit claim to application 10/343,782 (U.S. patent number 7,183,333) this would not be the proper subject of a petition under 37 CFR 1.55 (c). The petition procedure under 37 CFR 1.78 (a)(3) is applicable for delayed acceptance of domestic benefit claims under 35 U.S.C. 120. However, in the present case a petition under 37 CFR 1.78 is not necessary as this benefit claim was listed on the first Official Filing Receipt mailed February 22, 2007. Nevertheless, the application must be amended to contain the specific reference required by 35 U.S.C. 120 and 37 CFR 1.78 (a)(2). It is noted that the supplemental ADS filed concurrently with the present petition was not signed as required by 37 CFR 1.33. The ADS also lists the wrong filing date for application GB 0019251.8.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Any questions concerning this matter may be directed to Derek A. Putonen at (571) 272-3294.

A handwritten signature in black ink, appearing to be 'Boris Milef', written in a cursive style.

Boris Milef
Senior Legal Examiner
Office of PCT Legal Administration



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Ernest D. Buff
Ernest D. Buff & Associates, LLC
231 Somerville Road
Bedminster NJ 07921

MAILED

OCT 05 2010

OFFICE OF PETITIONS

In re Application of	:	
Wayne P. Fanco	:	
Application No. 11/644,571	:	ON PETITION
Filed: December 22, 2006	:	
Attorney Docket No. 0147-1 CIP2CON	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 19, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 5, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is February 6, 2010. The Notice of Abandonment was mailed June 24, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$405, and the submission required by 37 CFR 1.114; (2) the petition fee of \$810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

This application is being referred to Technology Center AU 1647 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions



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CANTERBURY GREEN
201 BROAD STREET, 9TH FLOOR
STAMFORD CT 06901

MAILED

MAR 28 2012

OFFICE OF PETITIONS

In re Application of
Gilles Guichard et al.
Application No. 11/644,625
Filed: December 22, 2006
Attorney Docket No.: 101448.00651

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)¹, filed March 13, 2012, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply to the Final Office action mailed September 12, 2011, which set a three (3) month shortened statutory period for reply. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The Notice of Appeal filed March 13, 2012 has been entered and made of record. Accordingly, the two (2)-month period for filing the Appeal Brief, accompanied by the fee required by law, runs from the date of this decision.

The fee for the Notice of Appeal has been charged to deposit account no. 50-3569 as per the authorization.

This matter is being referred to Technology Center 1622 for processing of the Notice of Appeal.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

¹ Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).



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INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 08/02/2010

Applicant	: Nadia Rahhal-Orabi	: DECISION ON REQUEST FOR
Patent Number	: 7655986	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/644,639	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **144** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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Paper No.

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

MAILED

NOV 09 2010

OFFICE OF PETITIONS

In re Application of	:	
Kernick et al.	:	DECISION ON APPLICATION
Application No. 11/644,694	:	FOR
Filed: 12/22/2006	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
VTN5119USNP	:	

This letter is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b) WITHIN THREE MONTHS OF RECEIPT OF THE NOTICE OF ALLOWANCE filed on August 16, 2010. The petition is being treated as a request that the initial determination of patent term adjustment be reduced by 54 days from 490 days to 436 days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PALM and PAIR screens to reflect that the revised Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is four hundred thirty-six (436) days. A copy of the updated PAIR screen, showing the revised determination, is enclosed.

On June 4, 2010, the Office mailed the initial Determination of Patent Term Adjustment under 35 USC 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is four hundred ninety (490) days (580 days of Office delay reduced by 90 days of applicant delay).

On August 16, 2010, applicants timely submitted the instant application for patent term adjustment.¹

Applicants request reconsideration of the patent term adjustment in connection with the supplemental reply (replacement drawings) filed on May 17, 2010, 54 days after the day after the date a reply was filed, March 24, 2010. Specifically, applicants state that entry of a period of reduction of 54 days for applicant delay is warranted.

Upon review, applicants are correct. On March 24, 2010, a response to a non-final Office action was mailed. On May 17, 2010, 54 days after the day after the date the response was filed, a supplemental response was filed. Accordingly, pursuant to 37 CFR 1.704(c)(8), a period of reduction of 54 days for applicant delay is warranted.

In view thereof, the revised determination of PTA at the time of the mailing of the Notice of Allowance is **four hundred thirty-six (436)** days (580 days of PTO delay, reduced by 144 (90 + 54) days of Applicant delay).

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The Office of Data Management has been advised of this decision. The application is thereby forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and if applicable, for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

¹ PALM records show that the Issue Fee was received on August 17, 2010.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

11/644,694

LENS WASH STATION AND METHODS OF ITS USE

11-08-

2010::07:58:32

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 11/644,694

Filing or 371(c) Date:	12-22-2006	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	580
A Delays:	580	PTO Manual Adjustments:	-54
B Delays:	0	Applicant Delays:	90
C Delays:	0	Total PTA Adjustments:	436

Patent Term Adjustment History**Explanation Of Calculations**

Number	Date	Contents Description	PTO(Days)	APPL (Days)	Start
63	11-08-2010	Adjustment of PTA Calculation by PTO		54	0
50	06-04-2010	Mail Notice of Allowance			0
49	06-01-2010	Issue Revision Completed			0
42	05-29-2010	Allowed Case Returned to the Examiner for Clerical Processing			0
41	05-29-2010	Document Verification			0
40	05-29-2010	Notice of Allowance Data Verification Completed			0
39	05-27-2010	Examiner Interview Summary Record (PTOL - 413)			0
38	05-29-2010	Examiner's Amendment Communication			0
37	05-28-2010	Notice of Allowability			0
36	05-17-2010	New or Additional Drawing Filed			0
35	04-08-2010	Date Forwarded to Examiner			0
34	03-24-2010	Response after Non-Final Action		90	31
33	03-24-2010	Request for Extension of Time - Granted			0
32	03-30-2010	Case Docketed to Examiner in GAU			0
31	09-24-2009	Mail Non-Final Rejection	580		-1
30	09-23-2009	Non-Final Rejection			0
29	09-06-2007	Information Disclosure Statement considered			0
28	09-06-2007	Information Disclosure Statement considered			0
27	10-04-2007	Case Docketed to Examiner in GAU			0
26	09-06-2007	Information Disclosure Statement (IDS) Filed			0
25	09-06-2007	Information Disclosure Statement (IDS) Filed			0
23	09-06-2007	Information Disclosure Statement (IDS) Filed			0
22	09-06-2007	Information Disclosure Statement (IDS) Filed			0
21	07-19-2007	PG-Pub Issue Notification			0
20	03-21-2007	Information Disclosure Statement considered			0
17	03-29-2007	Miscellaneous Incoming Letter			0
16	05-08-2007	Case Docketed to Examiner in GAU			0
15	05-02-2007	Transfer Inquiry to GAU			0
14	04-20-2007	IFW TSS Processing by Tech Center Complete			0
13	03-28-2007	Substitute Specification Filed			0
12	03-21-2007	Reference capture on IDS			0
11.7	03-21-2007	Information Disclosure Statement (IDS) Filed			0
11	03-21-2007	Information Disclosure Statement (IDS) Filed			0
10	04-17-2007	Application Dispatched from OIPE			0
9	04-09-2007	Sent to Classification Contractor			0
8	04-09-2007	Application Is Now Complete			0
7	03-29-2007	Additional Application Filing Fees			0
6	03-29-2007	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
5	01-30-2007	Notice Mailed--Application Incomplete--Filing Date Assigned			0
3	01-11-2007	Cleared by OIPE CSR			0

2	01-05-2007	IFW Scan & PACR Auto Security Review	0
1	12-22-2006	Initial Exam Team nn	0

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MORRIS MANNING MARTIN LLP
3343 PEACHTREE ROAD, NE
1600 ATLANTA FINANCIAL CENTER
ATLANTA GA 30326

MAILED

JUN 01 2011

OFFICE OF PETITIONS

In re Application of :
Fredrik Malmer et al. :
Application No. 11/644,709 : **DECISION ON PETITION**
Filed: December 22, 2006 :
Attorney Docket No. 21777-68977 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 3, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 2, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed February 1, 2011. Accordingly, the date of abandonment of this application is May 3, 2011. A Notice of Abandonment was mailed on May 10, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$755 and the publication fee of \$300, (2) the petition fee of \$810, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Data Management for further processing into a patent.

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions



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MORRIS MANNING MARTIN LLP
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1600 ATLANTA FINANCIAL CENTER
ATLANTA, GA 30326

MAILED

JUN 27 2011

OFFICE OF PETITIONS

In re Application of
Fredrik MALMER, et al.
Application No. 11/644,709
Filed: December 22, 2006
Attorney Docket No. **21777-68977**

:
:
: DECISION GRANTING PETITION
: UNDER 37 CFR 1.313(c)(2)
:

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 22, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 3, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2444 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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**SYNTHETIC GENOMICS C/O MOFO
12531 HIGH BLUFF DRIVE, SUITE 100
SAN DIEGO, CA 92130**

MAILED

OCT 01 2010

OFFICE OF PETITIONS

In re Application of :

Glass, John I. et al. :

Application No. 11/644,713 :

Filed: December 22, 2006 :

Attorney Docket No. 616872001200 :

**DECISION ON PETITION
TO WITHDRAW
FROM RECORD**

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 03, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to SYNTHETIC GENOMICS C/O MOFO has been revoked by the assignee of the patent application on September 21, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **SYNTHETIC GENOMICS, INC.
C/O DLA PIPER LLP (US)
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO CA 92121-2133**



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MARTINE PENILLA & GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE CA 94085

MAILED

JUL 18 2011

In re Application of
Yun, et al.
Application No. 11/644,779
Filed: December 21, 2006
Attorney Docket No. LAM2P579

: OFFICE OF PETITIONS
:
: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)
:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 10, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The proposed amendment to claim priority to the prior-filed applications cannot be entered because the examiner has determined that the proposed amendment raises new issues that would require further consideration and/or search. Accordingly, petitioner may wish to submit a Request for Continued Examination (RCE) if reconsideration of the petition for acceptance of the late claim for priority under 37 CFR 1.78(a)(3) is desired.

The examiner of record will mail an Advisory Action to applicants under separate cover.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: Customer Service Window
 Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By fax: (571) 273-8300
 ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3205.



Alesia M. Brown
Attorney Advisor
Office of Petitions



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710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE CA 94085

MAILED
AUG 23 2011
OFFICE OF PETITIONS

In re Application of :
Yun, et al. :
Application No. 11/644,779 : DECISION ON PETITION
Filed: December 21, 2006 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. LAMP2P579 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 26, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be

construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3205. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1713 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
11/644,779	12/21/2006	1713	1000	LAM2P579	17	2

CONFIRMATION NO. 5714

CORRECTED FILING RECEIPT



OC000000049453085

25920
MARTINE PENILLA & GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE, CA 94085

Date Mailed: 08/22/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Seokmin Yun, Pleasanton, CA;
Seong Hwan Cho, Fremont, CA;
Shrikant Lohohare, Fremont, CA;
Mark Wilcoxson, Oakland, CA;
John M. de Larios, Palo Alto, CA;
Stephan Hoffmann, Fremont, CA;

Assignment For Published Patent Application

LAM RESEARCH CORPORATION, Fremont, CA

Power of Attorney: The patent practitioners associated with Customer Number 25920

Domestic Priority data as claimed by applicant

This application is a DIV of 10/330,843 12/24/2002 PAT 7,198,055
which is a CIP of 10/261,839 09/30/2002 PAT 7,234,477

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see <http://www.uspto.gov> for more information.)

If Required, Foreign Filing License Granted: 01/27/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/644,779**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method of damaged low-k dielectric film layer removal

Preliminary Class

438

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

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Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

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NOT GRANTED

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